Est. 2. de MS. Tab. F.

M.S. Folio. pergamino, con 280 folios.

Relectio prima.

Aristoteles

Relectio prima utrinque

Indice deste tomo

56 ⁹⁄₉

[illegible] ad Cap [illegible] 3 0 8

[illegible] ad C [illegible] 3 0 1

[illegible] ad C [illegible] 3 0 .

[illegible] ad Cap [illegible] 3 3 0

S

1 1 2 [illegible] ad C [illegible]

[illegible]

3 3 7 [illegible] ad C [illegible]

3 3 3 [illegible] ad C [illegible] 31

4 3 0 [illegible] ad Cap [illegible]

1 4 4 [illegible] ad C [illegible]

4

3 4 3 [illegible] ad C [illegible]

[illegible] ad Cap [illegible] 3 6 3

3 6 3 [illegible]

4 1 6 [illegible] ad Cap [illegible]

[illegible]

56 $\frac{n3}{9}$

Parra

Scheda 1ª

Ad text. in cap. ex parte. 12. de constitution.

[illegible] quare [illegible] ex [illegible] Decretalibus [illegible]
[illegible] canonicorum [illegible] maiores fructus capiendo, et proinde [illegible]
[illegible] numerum [illegible] restringere [illegible]
[illegible] Philippus Decius [illegible] Felinus [illegible]

No. 2. [illegible] adversus [illegible]
[illegible]
[illegible] Alex. [illegible]
[illegible]

No. 8. [illegible] difficultas [illegible] adstante [illegible]
[illegible] numerum [illegible] restringere [illegible]
[illegible]
[illegible] superioris auctoritate [illegible]
[illegible] canonicorum [illegible]
[illegible] cap. [illegible] auctoritate [illegible]
[illegible] annullari [illegible]
[illegible]

No. 9. [illegible] canonicorum [illegible] reducendos [illegible]
[illegible] reducendos [illegible]
[illegible] canonicorum [illegible] superioris [illegible]
[illegible]

No. 10. Ex quibus omnibus [illegible] difficultate [illegible]
[illegible] canonicos [illegible] numerum [illegible]
[illegible] canonicos [illegible]
[illegible]
[illegible] canonicorum [illegible]

[illegible] ... in Canonicos fuisse ... [illegible]

... [illegible] ... ut tamquam ... [illegible]

Cum ... adstante nostro Canonicos ... [illegible]

similiter hoc idem in Statutis ... [illegible]

[illegible] ... Pontifex ... [illegible] ... Canonicis ... [illegible]

[illegible] ... Canonicam ... [illegible]

[illegible] ... admitti.

n. [illegible] ... [illegible]

[illegible]

Ius ... [illegible] ... Statutis ... [illegible]

[illegible]

[illegible] ... ad unam ... [illegible]

[illegible]

[illegible] ... Pontificio ... [illegible]

n. 12. [illegible] ... Vacatura ... [illegible]

[illegible]

[illegible] ... Statuti ... [illegible]

[illegible]

auctoritate interveniente.

n. [illegible] ... [illegible] ... Pontifex ... [illegible]

[illegible]

[illegible] [illegible] divino [illegible]

[illegible] Canonicis [illegible] [illegible] manifeste [illegible]

[illegible] ut [illegible] difficultate [illegible] ex antiquioribus liberari [illegible]

[illegible] numerum [illegible] Pontifex [illegible]

[illegible] [illegible]

[illegible] quadragesima [illegible] huic difficultati [illegible]

dicendum [illegible] creari [illegible] de novo [illegible]

[illegible] regulares [illegible]

[illegible] in capitulo [illegible] in [illegible] merito [illegible] canonicam [illegible]

[illegible] Pontifex [illegible]

[illegible] significationi [illegible]

[illegible]

[illegible] Canonicis [illegible] in cap. [illegible]

Denique examinetur [illegible] ad [illegible] in cap. [illegible]

[illegible] Canonicis [illegible]

[illegible] Pontifex [illegible] vacantem

[illegible]

[illegible] Canonicis [illegible]

[illegible] Canonici [illegible]

[illegible] difficultatem [illegible]

[illegible] Canonicos [illegible]

[illegible]

[illegible]

[illegible] Canonici [illegible]

[illegible] Canonici [illegible]

[illegible] propter hac dubitari [illegible] difficultatibus [illegible]

[illegible] accidente Canonicorum [illegible]

[illegible] Canonicis [illegible]

[illegible] Pontificis [illegible]

[illegible] Pontificis [illegible]

[illegible] eligere debent [illegible]

[illegible] Canonici [illegible] Pontifex [illegible]

[illegible] de novo [illegible]

[illegible] Canonicos [illegible] de novo [illegible]

[illegible] cap. [illegible]

[illegible] Canonici [illegible]

= [illegible] =
decreto

Ad tit. de rescriptis ——

Ad titulum de rescriptis recitat. solemnes
ad Prudenciam.

Quamvis valde difficile sit post tot doctissimos viros qui adhuc … rimentum …, in eodem stadio currere, cum vel nullus sit opere aliorum semper vestigia premere, vel omnia eiusnota digna aliquid novi et exprofesso … proferre, tamen …tentis et fidentianimo, nobilissimi, et amantissimi auditores, provinciam hanc aggredimur non tam … nobis, quam … voluntatis, secuti … fiducia multum … Longiorem disputationem de rescriptis, … studiorum … variarum rerum cognitione … ad … incolumem servandus, … dignitatis … explicare … intellectu … controversia … multi, … ad … sacri canonis … rescriptam … Nos … Curam … hic explicare … Ordiamur. =

n.º 2.

Itaque … Clarissimi … brebiter duo suponimus, animadvertimus que. Sit 1.º Fratrem Raymundum … eruditione … Decretalium Gregorii Noni Pontificis Maximi … ideo … titulum … de rescriptis … post titulum de … rescripta … l. 1. ff. de … Principii … naturali gentium, et Civili; non generales sed … l. 2. C. de legibus … generali titulo de … de rescriptis … rem domino, l. 1. ff. de rebus Creditis, et … summa huius tituli …

n.º 3.

Sit 2.º eundem Raymundum … de rescriptis tamquam … Decretalium libro, et in Clementinis … adiecisse … et … interpretationibus … codicibus … Collectione Decretalium apud Burcardum in repertorio … Canonici, et … Sermone … in illo … rescriptis … et … interpretationibus … nullum rescriptum … superior, ut … simpliciter … rescriptis … =

n.º 4.

… ad rescripta … accedamus. Dicuntur rescripta, et derivantur a … rescribo, ad idem est ac per scriptum … respondere, ut patet apud … ex Cicerone … epistolis, et ex Martiali epigrammatibus … l. Imperatores 35. ff. de … l. Imperator … ff. de … l. Imperatores 7. ff. de publicanis, et … rescriptis 25. q. 2. … ex … Abbas Panormitanus … Otomanus, et Brisonius de … rescriptum … rescribere … quamvis … rescribere ad absentes, respondere … ut ex … cap. 8, … ex … Nihil … significationibus … rescriptum … dicenti …

n.º 5.

… rescriptum … definiri solere, ut … tradunt … Panormitanus … n.º 2. … n.º 22. … moralis … 5. cap. 24. Suarez … 8. de legibus … 5. … differentiam rescripti … rescriptum … rescriptum … scripto facta. Cumque … habent, … ideo …

Tamen …

… C. de diversis rescriptis

Vestigia … auth. … Canonistis …

… rescribo …

… lib. 1. de rescriptis … n.º 4.

Sky exceptio ut ibi dictae definitionis set genere, cui conveniat cum liberalibus concessionibus, quae vel ex mera liberalitate vel ex [illegible] ... de donationibus §. traditionem inst. de rerum divisione. Rursus ex [illegible] quod sola parte postulatio dicitur rescriptum, adeoque Principis largitione, ac responsione, l. 2 § si quis a Principe ff. ne quid in loco publico, l. 3. §. plane ff. quando ad tutelam, l. 1. si nec tamen ... C. de precibus Imperatori offerendis, cap. Ceterum 3. ... ... glossa ... 6. notat Germonius ubi ... n. 4. =

N.° 6.

Deinde supponunt in definitione illa verba Legitimi Superioris, ad hoc ... proprie ad Principem ius rescribendi spectare. Romanus Pontifex ... ex integro ... Clementinum ... et ex traditis a Cuiacio ... 1. de sacris ... ministeriis ... 3. ... Petro Greg. ... Decretum. De Principe seculari ... ex Codice Theodosiano; ... qui ex rescripto Imperatoris ... à Quarens ubi ... et à Petro Barbosa ... l. cum quem 79. §. ult. n. ... ff. de iudiciis. Rebuffus ... et illa verba ... ut significet Principes in dubio secundum ius rescribere solere, l. 2. C. de diversis rescriptis, l. si ... C. de ... l. rescripta 7. C. de precibus Imperatori offerendis, l. ult. C. ... velut publicum; ... Principes ... intelligantur alicui ... in loco publico, ... Berous n. 8. et denique Rebuffus in ... inter privilegia n. 28. =

N.° 7.

Postremo in nostra definitione adiicimus illa verba Libello petita seu ... fasta, ut significemus morem ad eundem Principes per libellos seu epistolas, nec ... quemvis; si absentes aliquid à Principe desiderabant, solebant ad eum per epistolas, ... Suetonio in Augusto cap. 45. et 53. illustrant Bebardus pro tribunali cap. 8. Guterius ... 1. de officiis domus Augusti cap. 24. quae expectant ... l. nondum ... 32. §. cum quidam ff. de receptis arbitris, l. licet 23. ... ff. de appellationibus recipiendis, l. Quivis 33. ff. de re iudicata, et quae notat post alios Amaya ... observationum cap. 1.° n.° 10. ubi animadvertit Principes supplicibus libellis subscribere ... vel hanc subscribendi curam aliis ... mandare. =

N.° 8.

Verum definitio sic ita illustrata, et tamquam veri[or] ... in nullos patitur difficultates. 1.a est contra illa verba Legitimi Superioris, quibus significatur tantum ad Principes rescribere expectare; et ex eo provenit; nam certum est legatos Pontificis, et episcopos, nec non alios inferiores recte posse rescripta expedire, probant ... cap. ... confirmat ... Clem. ... de rescriptis, l. ... ff. de re iudicata, l. ... ff. de manumissis ..., l. apud ... de ... l. ... 58. ff. ... l. ... 79. §. ult. ff. de iudiciis docent Rebuffus ubi ... n. 26. et Barbosa ... Et hoc quod rescribere ... inferioribus ... definitione ... apposita verba ex quibus colligitur tantum Principibus id ... Hanc difficultatem ut dissolvant nulli ... dicebant inferiores ... rescribere posse, ... privilegio, et hoc ... intelligi ... quibus tale ... ; ... in ... merito de tali concessione, aut particulari privilegio, ... absolute ... inferioribus rescribere ... ... hac solutione ... dicendum ... rescribere ... principaliter ad Principes ... proprie quae ad eos expectare ... ut ... Romanus Pontifex ... secundo vero secularibus, ad seculares Principes. Verum tamen improprie ... rescribere, ... respondere inferiores solent, quod faciunt ... ... iudices inferiores ... interrogati ... Prudentes ... ... quomodo intelligantur ... proprie ... rescribere, ... definitionis verba recte ... =

N.° 9.

Rursus obstant illa verba secundum ius, quae denotant rescripta ... solere ... obstat ... illa vulgaris iuris regula, quae docemur frustra legibus impetrari quod ... de ... l. ... de thesauris ... omnino superfluitas sit vitanda ... finali C. de decurionibus, l. 2. C. Communia de legatis, ... rescripta ... cedantur ad observantiam iuris, ut inde ... superfluitas, ... potius debebant ... quando prohibitio ... cum ... Facile tamen difficultas ... ... dicamus, quod licet rescripta plerumque secundum ius ... soleat, ... omnibus

+ vel merito

+

... ...

ab omnibus debeat observari, l. leges 3. C. de legibus; tamen rescripti necesse est, l. [illegible] facilius [illegible] quod Principis authoritate indulgetur, quam quod generaliter scitur, cap. si adversus [illegible] cap. quamvis 6. 23. dist. [illegible] Cum illa Principis authoritate certa persona constituatur [illegible] quam facilius [illegible] observetur, [illegible] [illegible] plura remedia habere in [illegible] ad consecutionem alicuius rei, ut plurima demonstrabunt [illegible] [illegible] in [illegible] occurrentia exempla. =

nº. 10.

Praeterea eadem illa verba de iure impugnari videntur ex eo quod Principes pluries solent rescripta suis dare, ad hoc ut illud quod lege erat statutum observaretur. Cuius rei plurima in iure extant exempla. probant textus in l. 4. ff. de [illegible] ut in l. 3. ff. de interdictis, et relegatis, l. Imperator [illegible] ff. de [illegible], ut in l. 5. ff. de decurionibus l. 3. §. quamvis ff. si cui plus quam per legem Falcidiam, l. 1. §. si coheredis ff. ad leg. Falcidiam l. 2. ff. de bonis [illegible], l. [illegible] ff. de iure fisci l. [illegible] 33. l. [illegible] 26 [illegible] de O. et A. l. rescriptum 10. ff. de pactis; l. si procurator [illegible] §. [illegible] ff. mandati, [illegible] in his textibus et aliis [illegible] pluribus videamus rescripta [illegible] concessa, in re de iure [illegible] definita [illegible] [illegible] [illegible] quibus demonstratur [illegible] illa semper [illegible]. Huic dubio facile respondere poterit si dicamus quod licet regulariter rescripta [illegible] dari soleant, et tamen aliquando [illegible] Principes rescribant, nihilominus talia rescripta [illegible] dici possunt, cum eo ipso quod a Principibus conceduntur ut lege debeant observari, quando tantum [illegible] authoritate interveniente intelligatur, sublatum illud [illegible] impedimentum, ad alia [illegible] suadebat, [illegible] Principis quis [illegible] [illegible] posse abrogare ut latius dicemus. =

nº. 11.

Haec de definitione dicta sufficiant; explicemus nunc quamvis et quantam authoritatem rescripta a Principibus concessa in iure habeant. ut res adeo [illegible] [illegible], ut vix [illegible] [illegible] [illegible] cognosci [illegible], [illegible] ad veritatis cognitionem [illegible] claritatis gratia, illud animadvertendum tres esse constitutionum species, quarum altera edictum, altera decretum, ultima vero rescriptum appellatur, [illegible] l. 1. ff. de constitutionibus Principum, [illegible] §. sed et quod Principi placuit, instit. de iure nat. Decretum est lex generalis Principis, qua ille [illegible] publice iubet, ut aliquid fiat. Decretum quod Princeps [illegible] controversa [illegible] decernit. Rescriptum [illegible] [illegible] [illegible] est quod Princeps libello supplici aditus concedit, tradit ita Cornelius [illegible] 1. [illegible] c. 9. [illegible] Faber in l. 1. ff. de constit. Principum [illegible] Coronius [illegible] commentariorum [illegible] [illegible] et Theophilus pluresque alii in [illegible] [illegible] §. sed et quod Principi placuit. ex his speciebus edicta esse, et dici [illegible] leges, constitutiones universales [illegible] [illegible]; l. 1. ff. ne quid in loco publico, l. 1. ff. ex quibus causis maiores, rescripta vero, et decreta, quae [illegible] [illegible] habent authoritatem; imo prout Princeps [illegible] [illegible]. =

nº. 12.

Itaque hoc supposito, sequens dist. est observanda pro agnoscenda vi, et authoritate rescriptorum; si Princeps aliquid decernat, interloquatur, aut rescribat inter certas personas [illegible] certas [illegible] rescripta [illegible] esse leges quoad omnes sed tantum quoad personas in illis nominatas. adeo ut [illegible] diffinitivae, aut interlocutoriae [illegible] nullo modo ad alios extendantur; cuius rei ratio [illegible] [illegible] [illegible] ut Princeps velit facere [illegible] ut lex facta dicatur; [illegible] ita intelligens [illegible] §. [illegible] quod Principi placuit, et aut [illegible] intelligatur [illegible] [illegible]. facit [illegible] in l. 1. §. [illegible] ff. de constituta pecunia. [illegible] 7. §. [illegible] ff. de pactis. Ubi Princeps qui sententiam interpretatur dicat, [illegible] rescripta interloquutoria [illegible] [illegible] universis [illegible] [illegible] [illegible], [illegible] privatas [illegible], taliaque rescripta privatis [illegible] intelligantur habere authoritatem, [illegible] de quibus nulla mentio nec intentio fuit, generalem [illegible] [illegible] potuit, probant [illegible] in l. [illegible] C. de legibus [illegible] intelligendus, tradit Paulus Castrensis [illegible] 2 nº 2. C. de legibus. [illegible] ad [illegible] definitione [illegible]. Petrus Suarez [illegible] 3. de legibus [illegible] 15. nº 22. Petrus [illegible] 2 [illegible] 4. nº 4. [illegible] [illegible] c. 7. §. 4. nº 23. =

nº 13.

Si vero Princeps occasione alicuius controversiae dirimendae, animoque generalis [illegible], aliquod [illegible] dubium [illegible] quaestionem explicet; [illegible] Principis declaratio vim legis universalis obtinebit, quod adeo verum est ut nihil intersit talis declaratio emanaverit modo decreti, sive interlocutionis,

sive,

Lineas rescripta [illegible] rescripta vim legis generalis habebunt, [illegible] in l. ult. C. de legibus [illegible] n. 22. Tomas Sanchez [illegible] 2 de matrimonio disp. 31. n. 6. [illegible] de legibus disp. 1. sect. 3. [illegible]

alias difficultas in l. 1. ff. de const. Principum, ubi [illegible] quatenus ait decreta, rescripta, et interlocutiones leges esse [illegible] quo Princeps animum et intentionem habuit leges ponendi, ut animadvertit Ant. Faber [illegible]

intelligi aliud [illegible], poterit dicere [illegible] ita accipiendum, ut dixit simpliciter leges esse [illegible] generales [illegible]

si ad edictum referat, privatas vero si aliter locutus est, decreta, et rescripta [illegible]

[illegible] 5. = Haec eadem doctrina [illegible] in l. 3. § [illegible] voluntate, ubi rescripta [illegible]

[illegible] idem [illegible] generale [illegible] prodesse [illegible] obstare [illegible]

tanquam ad instar legis generalis promulgatas, ut explicat [illegible] selectarum cap. 13. [illegible]

[illegible] in l. [illegible] ff. ad l. Falcidiam [illegible]

hereditibus [illegible] l. ult. ff. de acquirendo [illegible] l. 1. § interdum ff. de legibus [illegible] =

Similiter [illegible] praedicta doctrina intelligenda [illegible]

n. 24.

[illegible] decreta. [illegible] in cap. 19 de regulis [illegible] ubi [illegible] Princeps [illegible]

[illegible] generale et [illegible] generaliter, [illegible] absoluta est accipiendum, [illegible]

[illegible] declaret [illegible] illam [illegible] pro lege generali servari [illegible] Panormitanus n. 2. Alexander [illegible]

n. 5. Cujacius [illegible] Petrus [illegible] 1. de rescriptis cap. 54 n. 8. [illegible] in practica [illegible]

sententias [illegible] in supremis curiis pro lege servari [illegible] exemplo [illegible] debeat in similibus [illegible]

[illegible] probatur [illegible] in fine [illegible] ff. ad [illegible] Aurelianum [illegible] Imperator [illegible]

38. ff. de legibus, et docent Menochius de [illegible] n. 27. Alvarus Valascus [illegible]

148. [illegible] 26, pluresque alii [illegible] = 2. [illegible] in cap. Licet § [illegible] 3. ubi decidit [illegible]

[illegible] in similibus esse servandam [illegible] Velle se illam sententiam generaliter

servari [illegible] formam [illegible] conditionibus [illegible] secunda [illegible]

[illegible] plurimorum [illegible] testimonia [illegible]

n. 25.

[illegible] si longius [illegible] tractatus [illegible]

[illegible] authores illa explicantes referam. [illegible]

Licet § in fine de sponsalibus [illegible] 7. [illegible] n. 26. [illegible]

[illegible] 14. n. 4. [illegible] 1. instit. moralis c. 4. q. 3. Bellarminus lib. 4. de Romano Pontifice c. 3. = [illegible]

[illegible] § [illegible] ff. ad l. Falcidiam l. [illegible] § [illegible] ff. mandati, l. 3. § pupillus ff. de

negotiis gestis l. 3. ff. [illegible] l. pupillus § 1. ff. de auct. tutorum, l. [illegible] 28. ff. de minoribus, l. [illegible]

84. ff. de adquir. hered. l. ult. ff. [illegible] l. [illegible] 27. § 1. ff. [illegible] 3. [illegible]

titulo [illegible] cap. 6. [illegible] Cujacius lib. 5. observat. c. 24. Ant. Faber

[illegible] c. 13. Noster [illegible] Melchior de Valencia lib. 1. illustrium tract. [illegible] c. 7. n. 27. =

Ex his [illegible] quod licet rescripta vim legis generalis

n. 26.

[illegible] habeant, [illegible] privatas [illegible]

[illegible] imperator [illegible]

[illegible] l. 3. [illegible] ff. [illegible] l. ult. C. de [illegible]

[illegible] in cap. 2 de [illegible]

ut [illegible] terminetur [illegible] ut [illegible] hanc [illegible]

[illegible] Fellinus [illegible] n. 2. [illegible] 567. =

n. 27.

Haec doctrina [illegible] limitatur [illegible] rescripta [illegible]

[illegible] l. 3. ff. [illegible] Sit 2. [illegible] illud rescriptum [illegible]

[illegible] l. [illegible] ff. de minoribus [illegible]

[illegible] l. ult. ff. de leg. 1. l. [illegible] 63. ff. de [illegible] l. 2. § 1. [illegible] ff. de

his quibus ut indignis, tradit [illegible] et alios [illegible] Rebuffus [illegible]

[illegible] pluresque alii quos refert, [illegible] 24. [illegible]

[illegible] =

n. ult.

Pro Coronide, et in complemento huius nostr. Rubricae illud notare duximus, quod varia rescriptorum genera invenire reperimus, et in obscuraetinuant etc. C. de diversis rescript. et titulus noster qui de rescriptis, de rescripto inscribitur, ut notat Anastasius Germonius post alios in paratitlis adhuc nostri tit. = Rescripta quidam sunt generalia, quaedam singularia; item alia perpetua, alia temporalia; L. 2. C. de diversis rescriptis, cap. Flenimque ... de iud. tit. cap. si gratiose 5. cap. ult. eodem tit. in 6. Frequentius alia gratiae, alia iustitiae; cap. penult. de Crimine falsi; extravag. pastoralis unica de offic. delegati inter comm. Dicuntur rescripta gratiosa, quae ad benefic. dispensationes et alia similia pertinent, cap. gratia ... hoc tit. in 6. clem. ... eodem tit. Rescripta vero iustitiae sunt illa quae iubentur litigatoribus cum causa cognit. exhibere; de quibus rescriptis fit saepe mentio in nostro tit. Rara inter hys rescriptorum genera sunt plures differentiae quas prosequitur Rebuffus in praxi tit. de diff. inter rescripta Petrus Gregor. de ... 2. de rescriptis cap. ... n. 11. quos et plura quae alia huc expectantia genera ipsos videri poss. Nos vero hic breviori stilo quo potuimus ad nostra praec. rescripta stent finimus, et haec dicta sufficiant de nostro tit.

Parocharius designatur ... Anastasius ... rescripti maioris ... = (margin)

= Rubrica. =

Academica Recitatio

Ad Textum in C. 1. H. nostr. tit. de Rescriptis.

n. 1. Nobilem et difficilem Alexandri III Decretum explicandum agredimur; in quo duplex proponitur rescriptum; alterum et alio litigatori concessum ut libere, et generaliter in omnibus liceat appellare; alterum adversae parti datum ut iudex in certa causa cognosceret appellatione remota; ut utrumque ... explicandum, si prius ... hypothesim proponamus, ita se habet. Archiepiscopus ... in Gallia dubitavit an ... delegato causam appellat. remota, et alter litigator litt. Apostolicas impetraret, quibus ei erat indultum libere apelare, an ... causam huius appellationem admittendam esse, cui dubitationi ... Alexander 3. respondens ... appellationem ... non admittendam, ... quia duo rescripta ... alterum generale alludens speciale, ... speciale generali derogatur, ex ... regula ... in ... 34 de R. I. in 6. ... 80 ff. de R. I. quadrat genera ... derogant, quam infra latius explanabimus. =

n. 2. Cum haec sic breviter proposita ... ex nostro textu deduci solet ... Rescriptum speciale derogat generali, etiamsi obtento etiam sibi e nullam faciat mentionem; probatur hic ... excep. pastoralis 24. § ult. cap. Abbate 40. hoc nostro tit. de rescriptis, cap. 2. de off. legati, cap. duabus 24. ... cap. quamvis 38. de prebendis et dignitatibus in 6. cap. generi 34. de R. I. ... ... Felicitatis ... Legati 80. L. in toto ... ff. de R. I. ... hanc ... antiquiores ... referentes ... ex ... 38, ex recentioribus ... pract. ... cap. 25. n. 6. Anastasius Germonius ... cap. 10. ... moralis ... 5. cap. 25. Rebuffus t. 2 ad ... Gallicas ... n. 203. Menochius de arbitrariis casu 97. n. 2. ... 36 ... et de praesumptionibus lib. 6. praesumpt. 40 Marta ... 9. ... 6. ... 3. recogitationis ... 54. ... plures que alii quos libenter omitto, et quos de more suo congerit Barbosa in collect. ad nostr. ... et Cenedo in collect. ad Decretales ... 128. =

n. 3. Sed licet haec ... ut ... et authoritatibus confirmata verissima sit, ... difficultatem ... dicitur ... tempus ... ad hoc ut quis posset libere, et generaliter in omnibus appellare; ... omnibus appellare licet, nisi nominatim alicui sit prohibitum; L. 1. ff. de appellationibus recipiendis, L. Imperator 25. ff. de appellationibus ... 20. L. ... 80. C. eod. tit. cap. ad Romanam ... § 6. ... de appellationibus ... cap. ut debitus honor 59. de appellationibus, tradit eleganter post ... et post alios ... n. 4. ... frustra ... indultum, ut diximus ... in L. unica C. de Thesauris lib. 10. L. 5. ... ad Municipalem

L. 3. § ult. ff. ... appell. ... (margin)

L. qui sub ... 8. § ult. ff. de cond. inst. cap. cum ... 30 de rescript. in 6, l. doli clausula 19. ff. de V. O. ... dicto rescripto
libere apellandi in nostro ... ... in ... fuit et tamen tale concedi debuit. ... quo concessum fuit non potuit
generali derogare ... ... nulla indiget derogat. l. 1 Cum ... ff. de inusto rupto, irrito que facto test.

nº 4.

Secundo ... urget sequens consideratio. Praescriptum ...
in quo specialis iurisdictio conceditur generali non derogatur l. ult. C. de iurisdict. om. iudic. ... l. 1 C. de off.
Praefecti Urbis probat etiam tex. in cap. ... 17. de haereticis lib. 6. sed in rescriptis ad lites conceditur iurisdictio, ut a
notarii colligitur et apparet ex cap. pastoralis 13. cum ... hoc tit. de rescriptis, ... rescriptum speciale non potuit
generali derogare adversus id quod in nostro ... statuitur. =

nº 5.

Tertio ... illa quae generalis ... qua cavetur gener...
... speciem derogari illud ... generis ... minuitur, licet postea enumerentur ... hoc ... in ...
plurima testimonia, unum sufficiat ... l. ... 12. § si quis fundus ff. de fundo instructo; ubi, ...
in generale legetur fundus, et postea enumerentur species quae in fundo sunt legatis valet ... specialiter ...
generi non obstet; ... generi ... non derogatur, ac ... rescriptum speciale ... debuit generali ... illud quod ...
... cavetur. =

nº 6.

Denique quatenus in nostro ... deciditur rescriptum speciale ... gen...
... derogare ut licet in ... nulla fiat mentio, nihilominus tales derogatio locum habeat ... in cap. ...
hoc tit., ubi probatur rescriptum de ... mentionem faciens ... surreptitium reiiciendum esse, sed in 2º rescripto ...
quo removetur appellatio ... fuit ... privilegii libere apelandi, ut ... constat, ... tam ...
to statuimus, igitur ... non potuit derogare ... quaesita. =

nº 7.

His dificultatibus minime refragantibus dicendum est veri...
in nostro ... rescriptum speciale generali ... obtento derogari quamvis nulla de eo fiat me...
Cumque ... decisionis ... ut facilius demonstrare possimus in ... animadvertendo duximus, ... valentissima ...
est genus apud Pontifices ... duplicitur solere usurpari. 1º quatenus ... plures res distantes numero ...
... similes, ... Canonicae ... ubi permittitur ... appellare, quae appellatione licet ...
... in eiusdem conditionis ..., + de iure civili probant tex. in l. 2 § mutuum ff. de rebus creditis l. ... § ...
... idem ff. de leg. 2º l. ... 33. ff. de ... § genera ff. de ... posit. ..., cap. ... vera et ...
permissionem appellandi de qua in nostro ... agitur speciem ... genus ... = ... genus dici solet ... aliquid ...
finite generaliter ... vel ..., exempli per ... legatis hominis, ... nomine ... determin...
persona ... refertur, legatum generis ... speciei dicitur, ... legatum genere ... in l. in executione ... § ... ff. de
V. O. l. ... Hoc ... Bartolus ... et ... plures quae ... antiquo ...
in ... l. ... et in ... l. 2. ... doctrinam amplectitur Covarr. in l. in ... 54 de V. O. nº 24. =

nº 8.

Plurimum ... est notandum speciem quamvis ... in ... dici
dum appellant, dicitur quae continet certa corpora, ... quae ... nomine ... demonstratur, ut certe ... esse
... l. Cum ... 47. § 1. ff. de leg. 1º l. ... 30. § ... ff. ... in ...
ff. de V. O. ... l. 2. ... ff. de rebus creditis, notant Cujacius, Covarr. in d. ... stipulationibus nº 25. ...
... quatenus ... illud mandatum ... appellatione remota ... speciale ... quod ... nomine ...
appellat. remota ... solet ... cap. ... certa ... mandatum ... speciale mandatum dicitur in cap. ...
..., in cap. ... 33. hoc tit., cap. ... de procuratoribus ... specialis ... certa ... in
... de ... speciale obligatio, quae ... certo ... l. 2. C. de ... speciale ...
singularis ... ad personam, ut ... l. ... speciale ... ff. ... di ...
... ff. ... Similiter et specialis substitutio illa dicitur, quae certis ... l. cohaer...
41. § ... ff. de vulgar. et pupill. substit. ... notat Covarr. ... ubi ... C. de ...
in ... ad ... concedit, ... speciei ... dici, ... ut ... antiq...
quod significat idem ac video, ... quod tunc ... est ... ut certo in dividuo ...
... significari posset. =

nº 9.

Quibus ... melius ... declarandi ...
disponere in specie ... disponere in genere, ... in ... speciei ... nominis ...
generis, ... est, quia in genere nomen ... universale ... in specie nomen proprium ...

demonstrat, designatur, at ubi singulariter specialiter exprimitur melius exprimitur, et declaratur mens voluntas concedentis quam id quod generali clausula statuitur, cap. a de donationibus cap. quamquam 29 dist. Ut ad positionem generis sequitur actualis positio specierum; in positione speciei, sequitur actualis positio generis, exemplum rem hanc declarant. Si quis dicat quis est animal, non sequitur consequentia, ergo est homo; sin vero dicat est homo recte infertur ergo est animal, ut idem deduxerunt ex l. si unus 49. § 1. ff. de legatis 3°. Bartolus in l. 2. § doli mali ff. vi bonorum raptorum Ricardus in locis legalibus loco 7°. =

n° 10.

Denique ipsum animadvertimus quod cum dicimus speciem generi derogare nolumus significare universum genus perire per speciem, sed id potius ut species illa a genere eximatur, si peculiariter demandatum fuisse, quia derogare proprie loquendo nihil aliud est quam ex toto parte aliquid detrahere, ita ut reliquum maneat quare derogari legi dicimus cum aliqua eius pars detrahitur, l. derogatur 102 ff. de v. s. Ulpianus in fragmentis tit. de legibus in princ.; ob quam rem plurima Romanorum Magistratuum exempla in eo genere adeo referant, illa omittimus ut ad genuinum nostri decisionis accedamus, videantur de illis ... Corellus tit. 7. comment. cap. 9. ... Brissonius de V. S. verbo derogare, Otomanus et Prateius caeterosque ... quae de his videnda ... in eodem titulo legere nescio quo videri possit, quorum doctrina ... antea plusque manifestum est. =

n° 11.

Denique animadvertendum venit et examinandum quale ex duobus rescriptis in uno tenens, praevaluerit, an generale quo permissum fuit libere et generaliter appellare, an vero speciale quo cassa iudicibus delegatis appellatio remota fuit omnino. In hac re in nullis ex antecessoribus omnibus iudicarunt ... speciale prius fuisse concessum, et post illud generale fuisse impetratum, ad quod movemur ex illis ... aliud rescriptum ... fuisse concessum, ... quod docent ... et ... citatis, et ... affirmant ... generale rescriptum inutile, et invalidum ... speciali ... facta fuerat ... tit. ex ... in posteriori ... n° 6. = Verum hic ... rescriptum ... speciale ... quare. Verum putamus ... in loco ... concessum rescriptum generale, et postea speciale; ... movemur ex illo ... ubi ... iudicibus appellatione remota ... notare manifeste videntur inutile remanere rescriptum generale post speciale postea impetratum. Deinde ex illo ... ultimo, munita, ... ante rescriptum speciale appellatione remota munitum fuit ... generaliter appellandi; quae doctrina tanquam ... amplectenda est, quatenus ... rescriptum ... quale rescriptum ... impetratum, nam quotiescunque duplex invenitur rescriptum alterum speciale, alterum generale, semper valet speciale ex quo species generi derogat, de cap. ... cap. quamvis ... de praebendis tit. 6. cap. 4°. de constitutionibus eodem tit. ... =

n° 12.

His ita constitutis sequitur iam nostrae assertionis ... proponere, ... Alex. 3°. traditur ex certa ratione ... deducere; quia et si constitutionis nostrae fundamentum in eo consistat et mandatum speciale derogat generali, id ... est ... ignoramus quare generi species derogetur, et primum rescriptum ... noster est sermo. quare ... pluribus rationibus omissis quae ... attestantur ... Didacus de Sahagun ... ad ... n° 2. ... continere; magis placet illa quam ... ante ... deducere ... aperte ... generalis aut collectivis, aut indifferenti nomine demonstretur, species vero proprio nomine, et infallibili demonstratione rem ipsam ostendat, ... in specie magis declaretur disponentis voluntas, ergo ... sequitur necessario et evidenter ... disponentis semper voluisse speciem generi praevalere, et generi per speciem derogari quare cum ... genus, et species invenitur, ... generale, et speciale rescriptum, ... praesumatur, ut specialiter concessum custodiatur ... speciale rescriptum praevalere, et omnino generali derogare ... appellatio ... posita ... speciali rescripto ... appellatione remota ... =

13.

Vl. iam ... quae ... gratia dubitandi ... non ... generale rescriptum ... unicuique ... appellare ... cuilibet ... appellare ... frustra ... rescripto ... in argumento ... si nullum erat, ... derogat, nam licet fateamur hanc ... interpretationem ... liberationem, ... animadvertentes ... existimasse illa ... libere, et generaliter ... facultatem appellandi ... in ... ultimum ... ...

Marginal notes: ... cum, plura quae ... elegantius tractata ...; ... praelat. ...; ... generaliter ... derogetur. =

[illegible], verum etiam in literis prohibitis, argumento text. l. si [illegible] ff. de legatis 1° quam optimo [illegible] fundant. [illegible] amplectat. Alij ut pleniter difficultatem dissoluerent existimarunt clausulam generaliter appellandi in motu tam impetratam fuisse [illegible] qui in poenam Criminis perdiderat prohibitus erat appellare, ad hunc effectum ut à sententia, et pena ex indulgentia Principis liberatus intra terminos ut [illegible] libere et generaliter possit appellare, sic que talem respectum aliquid speciale operare existimant. Haec solutio divinatoria quae fingit obstaculum impositum [illegible], et ex motu, et ex integra [illegible] ab Antonio Augustino [illegible] aliquod delictum omissum, aut condemnationem sequutam fuisse. Quamvis hijs solutionibus [illegible] [illegible] quae alijs, quas adducunt, Hostiensis [illegible] Perusinus n° 34, et Panormitanus n° 4, Petrus Greg. [illegible] n° 6. Anastasius [illegible] [illegible] animaduers. cap. 20, dicendum est quod licet verum sit frustra peti impetrari id quod à iure est concessum, in hoc tamen motu cessat propterea quod aliquid amplius conceditur, quippe cum per litteras apostolicas alicui indulgetur, ut libere et generaliter appellare liceat, ut in motu facti [illegible], tunc illud amplius concessum videtur, ne ab aliquo iudice impediatur [illegible] [illegible] ; [illegible] certum [illegible] de quo in motu [illegible] utilitatem fuisse in [illegible] difficilius [illegible] appellare propterea quod magis timerit iudex Princeps [illegible] appellationem admittere, [illegible] generaliter [illegible] 23 et Decep. 2. de donationibus, ideo quod illi [illegible] iudex [illegible] 18 de privilegijs, cap. ad audientiam 34 [illegible]. [illegible] ad [illegible] 12. tab. [illegible] [illegible] 12 ff. de [illegible]. [illegible] generale [illegible] [illegible] valide [illegible] [illegible] si specialis [illegible] [illegible] locum habet, [illegible] derogatio ad [illegible].

n° 24.

Nec magis obstat 27 arg. deduct. ex l. ult. C. de iurisd. [illegible] cum similibus quibus probatur [illegible] in quo specialis iurisdictio conceditur generalem derogari, ac [illegible] habere in motu; quia dicendum est quod licet valde controversum sit an [illegible] obtineat in iurisdict., ut [illegible] quos congerit antiquiores in cap. pastoralis de off. ordinarij, Coll. pract. 93 cap. [illegible], tamen certum [illegible] generalem specialem derogari [illegible] habere locum in iurisdict. [illegible], quod ideo est, quia regulariter ad iurisdictio specialis conceditur [illegible] cumulative, et [illegible] privative. Cum iurisdict. iudicis Ordinarij, ideo que [illegible] apparet de volunt. Principis [illegible] iurisdict. [illegible], et ab ordinaria separari, semper intelligitur concessa cumulative, [illegible] omnibus, [illegible] tantum modo conceditur. In dubio [illegible] dari privativa generali [illegible], quod [illegible] [illegible] finali, [illegible] fuit concessum genus, [illegible] iurisdictio cumulativa, [illegible] [illegible] quae [illegible] 27. [illegible], quia [illegible] specialiter, [illegible] generaliter conceditur [illegible] et generaliter [illegible] legati, et tradit Simancas de Catholicis instit. tit. 46 n° 4 [illegible] de pot. legati [illegible] n° 100. [illegible], specialis [illegible] generalis [illegible] [illegible] tanquam [illegible] Felinus et Panormitanus in cap. [illegible] de [illegible] n° 5. [illegible]

[illegible] concessa a Principe [illegible] derogetur

n° 25.

Difficiliorem explicatum habet 37 arg. deductum ex l. quaesitum, § si quis [illegible] de fundo instructo, ex [illegible] aperte probatur genus [illegible] per species enumeratas, sicuti in motu [illegible] specialem derogari. Siquidem inter [illegible] adducunt [illegible]. [illegible] in d. l. [illegible] n° 13. [illegible] obtinere quod legatum generis et [illegible] procedere quando [illegible] et genus [illegible]. [illegible] de [illegible] fundi, § quid [illegible] ff. de fundo instructo [illegible] l. legatis [illegible] ff. de [illegible] legata, ubi [illegible] nihilominus [illegible] habet locum [illegible] derogat. = Quamvis hac solut. [illegible] breviter dicendum [illegible] fundi [illegible] maioris demonstrationis gratia, ut [illegible] testator [illegible] sub genere [illegible] Fuerit [illegible] debuit [illegible], aut de [illegible], nisi [illegible] de volunt. [illegible] minuere, speciemque à genere separare, quod [illegible] ubi [illegible] voluntas [illegible] genere [illegible] derogaret, [illegible] § [illegible] [illegible] voluntas [illegible] [illegible] ff. de legato, [illegible] ff. de [illegible] legato, l. Titia [illegible] § [illegible] ff. de annuis legatis [illegible] ff. de fundo instructo [illegible]. [illegible] de auro, et argento legato [illegible] 27. 29. [illegible] n° 26. =

n° 26.

[illegible] de auro, et argento legato, [illegible] ff. de legat. 3°, ubi probat [illegible] species enumeratas derogari generi, [illegible] [illegible]

Bars. [illegible] ff. solut. matrim. [illegible] [illegible] 17. [illegible] plures [illegible] 48. [illegible]

[illegible]

Si dicamus individuis utrisque in litteris facta expressio alicuius speciei, et tamen individui, individuum autem est quod sub certa continetur specie, distinguitur enim, et uno ab altero, ut utrumque de duo, sicuti et vasa Germanica vel Italica; itaque si testator legaverit duas statuas marmoreas, et de marmore, deinde [illegible] de marmore alteras statuas, quia ex quo testator legavit duas, videtur voluisse comprehendere illas statuas marmoreas, et de marmore, iteralias statuas sub illo genere; quia illius individui expressio derogat speciei, ut [illegible] individuum tantum exprimat, nec minus qualitercumque [illegible] derogari. Docent [illegible] in cap. [illegible] de [illegible]

nº 4 Decius et Barbatia [illegible] nº 2 et 5 =

nº 27. Denique non obstat posterius argumentum deductum ex cap. litteras [illegible] quo probatur concessum rescriptum [illegible] in [illegible] [illegible] [illegible] debere [illegible] definiente, nam [illegible] dicendum est [illegible] concedere et utrumque rescriptum esse generale vel speciale; quod in [illegible] [illegible] si per [illegible] procedit [illegible] rescriptis unum fuit generale, et alterum speciale, [illegible] speciale semper et qualiter cumque [illegible] sit derogat generali ex [illegible] allata. [illegible] in cap. [illegible] 6. [illegible] de rescripti [illegible]

nº 28. Ex his omnibus [illegible] interpretanda [illegible]

Decreta, atque responsa, quae [illegible] in [illegible] contrariare videntur, et inprimis est interpretandum difficile, et elegans Alexandri III Decretum relatum in cap. ex [illegible] de filiis presbyterorum, in cuius specie duo sunt rescripta, alterum generale, quo dispensat filijs sacerdotum permittitur ut immediate possint obtinere beneficia paterna; alterum speciale, quo [illegible] [illegible] [illegible] si obtinuerint patres eorum immediate [illegible] [illegible] [illegible] rescripti generalis et specialis [illegible] generale rescriptum dispensationis [illegible] ut [illegible] [illegible] [illegible] posterioris litteras [illegible] [illegible] speciale rescriptum generali derogare. = Difficultatem hanc [illegible] in multis [illegible] interpretibus, variasque [illegible] solutiones et totas ex his quas docent Panormitanus [illegible] nº 14. [illegible] nº 6. [illegible] [illegible] [illegible] [illegible] [illegible] itaque [illegible] rescriptum speciale posterius derogare priori generali; quia Archiepiscopus [illegible] dispensavit [illegible] generalis rescripti [illegible] [illegible] [illegible] speciale rescriptum impetraretur, [illegible] [illegible] dispensatione, [illegible] [illegible] [illegible] fieret certior [illegible] in cap. [illegible] 14. § Considerantes de praebendis [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] speciale [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] pastoralis 14. § ult. [illegible] [illegible] [illegible] [illegible] devotare videntur [illegible] [illegible] quotiescumque ex [illegible] generalis mandati exprimuntur [illegible] [illegible] [illegible] rescripti speciali [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] mandatis [illegible] extra [illegible] =

nº 29. Secundo [illegible] interpretatio [illegible] difficilis et [illegible] in cap. ex [illegible] 12. de off. [illegible] delegati, ubi duo rescripta ab Alex. P.P. [illegible] referuntur; alterum generale ad hoc ut quicumque Archidiaconatus in [illegible] Conventrensi vacaret cuidam impetranti [illegible] [illegible] [illegible] assignaretur; alterum speciale, et fortasse contrarium, ad hoc ut si [illegible] [illegible] [illegible] Archidiaconatum quem in [illegible] habebat, vellet dimittere, illi ipsi assignaretur. dubitatur itaque an priores litterae generales, an vero posteriores speciales debeant praevalere; [illegible] [illegible] Archidiaconatu [illegible] conferendo generale rescriptum impetranti aut speciale obtinenti, [illegible] [illegible] [illegible] probet Pontifex, Mandamus [illegible] [illegible] [illegible] N. Archidiaconatum [illegible] [illegible], non obstantibus posterioribus litteris [illegible] quae aperte significant [illegible] rescriptum generale custodiendum, non obstante speciali rescripti [illegible] = [illegible] difficultatis diluendae [illegible] [illegible] solent [illegible] communiter solutiones [illegible] tradunt Panormit. in [illegible] nº 4 [illegible] pastoralis § quoniam [illegible] et post [illegible] [illegible] [illegible] de [illegible] mandati. [illegible] [illegible] [illegible] [illegible] dicamus in cap. ext. [illegible] [illegible] rescripta [illegible] alterum generale, et alterum speciale, [illegible] utrumque speciale esse; nam licet prius rescriptum quod [illegible] generale [illegible] [illegible] Archidiaconatu [illegible] [illegible] vacare [illegible] assignaretur; [illegible] speciale est [illegible] ad unicum Archidiaconatum, qui [illegible] vacaret contingebat. [illegible] posterius rescriptum speciale [illegible], [illegible] inter duo specialia [illegible] valeat, [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible]

Cum in n.o [illegible] facta, quo casu [illegible] cessat [illegible] caeterum [illegible] Locum [illegible] et dubitat [illegible]
nec sine duce hoc dicimus, tradit eleganter [illegible] mandat, [illegible] consummunder [illegible]
Beroius, Decius, et alijs, Rossillus [illegible] de mandato cap. 19. [illegible] n.o 28. =

n.o 20.

Sed hic interpretatio quartus verissima [illegible] duplici difficultate [illegible]
videtur. 1.o ex eo provenit, nam potest evenire ut duo, vel tres aut plures Archidiaconi in una eademque die, imo eodem momento [illegible] quo casu cum in pluribus verificetur [illegible] dicuntur vacare, quia proximus [illegible] quem nemo praecedit [illegible]
[illegible] et in l. ex duobus in princ. de vulgar. [illegible] substit. cap. [illegible] de V. S. [illegible] Ecclesias Cathedrales [illegible]
in qua unica tantum Archidiaconatus dignitas sit, imo plures semper sunt, ut accidit in mea Ecclesia Salmantina; et alijs [illegible]
Sibus [illegible] rescripti de quo in d. cap. ext. [illegible] speciale [illegible] generale [illegible] = 2.o deducitur ex decisione [illegible] in cap.
Abbatem 40. Locum [illegible] rescripti, ex eo [illegible] rescripti quo cum Bononiensi [illegible] ut faciat provideri
sua dioecesi cuidam Clerico de beneficio primo vacaturo generale [illegible] similiter [illegible] rescripti debet [illegible]
generale, [illegible] propria aliena [illegible] appellatione [illegible], quod videtur generaliter [illegible] ubi aut [illegible]
[illegible] duabus difficultatibus [illegible] procul dubio superior interpretatio [illegible] amplectenda est. [illegible]
[illegible] excogitatam [illegible] dicendo [illegible] licet [illegible] sit in quolibet [illegible] solere [illegible] Archidiaconatus, [illegible] evenire, ut [illegible]
[illegible] duo decedant; [illegible] si hoc [illegible] contingat, [illegible] maiores [illegible] decepti, [illegible] minores [illegible]
[illegible] Archidiaconatus [illegible] prius [illegible], [illegible] probat [illegible] duobus [illegible] habet
[illegible] rescripti speciale [illegible] Archidiaconatu [illegible] vacaturo. = Nec magis obstat [illegible] cap. [illegible] Abbatem 40. Locum [illegible]
[illegible] rescripta ad beneficia [illegible] vacatura [illegible] beneficium [illegible] posteriori [illegible] generalis dicitur quoniam [illegible] pluribus
beneficijs [illegible] habere poterat; [illegible] Abbas [illegible] existere [illegible] beneficijs [illegible]
monasterij, quo casu cum rescriptum generale [illegible] pluralitas beneficiorum [illegible] cap. ext.
[illegible] cap. Abbatem speciale rescriptum [illegible] alijs, quos tradit Beroius [illegible]

n.o 21.

[illegible] interpretandus venit elegans et difficile [illegible] Pontificis
Maximi decretum relatum in cap. ext. [illegible] de Capellis monachorum, [illegible] oppugnari videtur, [illegible]
speciale derogare generali, [illegible] facta mentio de [illegible] valeat [illegible]
generale [illegible] quo eximuntur a solutione decimarum, de quo [illegible] fit mentio in cap. ext. [illegible] cap. [illegible] et in cap.
34. de decimis [illegible] non obstante speciali rescripto [illegible] Concilij Lateranensis [illegible] monachi [illegible]
[illegible] nulla de [illegible] Concilio [illegible] facta mentio [illegible] speciali rescripto, [illegible] ad derogationem generalis rescripti [illegible]
[illegible] necessaria mentio [illegible] = Hanc difficultatem [illegible] et indissolubilem [illegible]
[illegible] inter eos Beroius [illegible] n.o 44. [illegible] n.o 54. Archidiaconus in cap. 1.o de constitutionibus [illegible] 6. [illegible] 3. pro religiosis [illegible]
singulariter concessis et in favorem [illegible] ut [illegible] fiat mentio, [illegible] rescripto [illegible] impetrato. [illegible]
[illegible] nullibi [illegible] ex eo [illegible] cap. [illegible]
[illegible] hac solutione omissa, et alia, quam tradit Suares de legibus [illegible] cap. 14. dicendum [illegible] Pontificis [illegible] in d. cap. ext.
[illegible] tractasse [illegible] rescriptum speciale Concilio Lateranensi derogaret, [illegible] rescriptum
quia [illegible] Concilium fuit impetratum, a [illegible] emanasse praesumatur, [illegible] censeri [illegible]
nam [illegible] impetratum fuerit [illegible] de eo fecerit mentionem credendus [illegible] Pontifex [illegible] Concilio derogare voluisse
[illegible] non obstante [illegible] litteras ab [illegible] Apostolica Sede impetratas, et tunc [illegible]
respondere [illegible] litteras [illegible] Concilio Lateranensi nulla de eo facta mentione derogasse; [illegible] hanc solutionem [illegible]
[illegible] ab Apostolica Sede [illegible] emanasse, quia [illegible]
nolle videretur. =

n.o 22.

[illegible] hanc solutionem [illegible] posterioribus [illegible]
[illegible] solent, [illegible] forsitan emanaverint [illegible] Concilio [illegible]
[illegible] de derogatione [illegible] Concilij Lateranensis [illegible] litteras apostolicas [illegible] dicimus, quoniam
[illegible] simpliciter [illegible] litteras [illegible] Concilium [illegible] sub conditione [illegible] litteras [illegible]
[illegible] nec [illegible] graves Pontifices [illegible] fuerint, [illegible]
[illegible] semper [illegible] = [illegible] in d. cap. ext. [illegible]
[illegible] dicere in d. cap. ext. [illegible] illud generale Lateranense [illegible] Beroius [illegible]
Vocatus [illegible] Baronius anno 1059; [illegible] Lateranensi
Concilij particulare [illegible] Episcoporum [illegible] refert Baronius anno 1063. [illegible]
[illegible] particularis [illegible] derogatio [illegible] debet [illegible] mentio, [illegible] cap. [illegible] mentio [illegible]
[illegible] Concilij derogatio [illegible] inducitur. =

[illegible]

n.° 23.

24. Planus est opponi potest, ex oliari quolibet [illegible] in cap. ex Ordinem 6. hoc tit. de rescriptis ubi postquam privilegium generale fuit [illegible] fuit etiam postea rescriptum speciale, [illegible] illud [illegible] derogari generali privilegio quia de eo in tali rescripto mentio facta non fuit; [illegible] generali derogare, quamvis de eo [illegible] fiat mentio [illegible] huius [illegible] in nulli [illegible] [illegible] privilegiis quibus [illegible] [illegible], verius iudicamus etiam in privilegiis [illegible] locum esse, adeo ut [illegible] generale privilegium derogetur per speciale rescriptum, ut [illegible], sed etiam per speciale privilegium posterius, docent ita [illegible] privilegium [illegible] 10. Suarez [illegible] 8. de legibus cap. 39. n.° 7. [illegible] de legibus [illegible] 17. sect. 24. n.° 74. qui [illegible] 20. [illegible] 8. idem admittit, [illegible] quos huius [illegible] fundamentum videri potest = [illegible] supposito, iam non obstat [illegible] cap. ex [illegible] 6. [illegible] de rescriptis, quia [illegible] plurimis interpretationibus [illegible] antiquiores [illegible], et alii apud [illegible] dicentes idem [illegible] mentis [illegible] privilegio, quia ut [illegible] integra [illegible] inter secreta [illegible] 3 in appendice Concilii Lateranensis [illegible] 41. tit. de interpretatione rescriptorum c. 4, privilegium illud [illegible] Cisterciensis [illegible] [illegible] ne [illegible] super decimis [illegible] qui [illegible] specialiter erant concessa, possent monachi [illegible] praescripta postea impetrata [illegible] factam [illegible] privilegia [illegible] ut [illegible] in cap. [illegible] 22. cap. in nulli [illegible] de rescriptis [illegible] §. 3. [illegible] n.° 12. [illegible] 22. [illegible] 9. Hodie [illegible] religiosi [illegible] habent melius privilegium [illegible] et [illegible] [illegible] dicuntur [illegible] [illegible] privilegio mentio facta non fuit, [illegible] [illegible] [illegible] in [illegible] Curia Romana receptum et tradunt [illegible] Barbosa [illegible] n.° 26. Panormit. n.° 6. [illegible] n.° 69. [illegible] n.° 74. =

n.° 24.

Denique interpretandus [illegible] cap. [illegible] 4. de [illegible] cap. in nullis de rescriptis in quibus [illegible] rescripta specialia [illegible] propter [illegible] de generali [illegible] [illegible] facta [illegible] fuit; quorum [illegible] [illegible] [illegible], [illegible] [illegible] [illegible], [illegible] dicamus illa procedere [illegible] [illegible], [illegible] [illegible] habet clausulam [illegible] ad [illegible] rescripta [illegible] [illegible], [illegible] clausula [illegible] sit facta [illegible], quia [illegible] [illegible] ad [illegible] [illegible] [illegible] tradit hanc solutionem [illegible] [illegible] in cap. in nullis [illegible] Cardinalis [illegible] Glos. [illegible] [illegible] [illegible] de legibus [illegible] n.° 6. =

n.° 25.

Succedit iam in nulla [illegible] responsa interpretanda, quae [illegible] [illegible] [illegible] generi per speciem derogari, obstare videntur, et in primis [illegible] [illegible] in l. Sed [illegible] 99 ff. de legatis 3.° ubi proponitur Stichum fuisse legatum [illegible] Pamphilo, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] in hac [illegible] [illegible] Pamphilus [illegible] Stichum [illegible] [illegible] [illegible], [illegible] [illegible] [illegible] [illegible] legatum [illegible] [illegible] generaliter [illegible] Pamphilo [illegible], et [illegible] [illegible] Iulianus Stichum legatum [illegible] ad dominum [illegible] Pamphili [illegible] [illegible]; igitur [illegible] [illegible] generi [illegible] derogavit. = Ut hanc difficultatem dissolvam, supponimus [illegible] [illegible] generale [illegible] speciale [illegible] [illegible] [illegible] [illegible] [illegible] de legatis, [illegible] [illegible] [illegible] legatum [illegible] [illegible] tradit legatarius [illegible] Pamphilus [illegible] ff. de [illegible] [illegible] [illegible] cap. 14. [illegible] [illegible] dominum utriusque legati [illegible] Stichi, [illegible] [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] in hoc loco [illegible] [illegible] [illegible] legatum specialibus [illegible] [illegible] [illegible] [illegible] Pamphilus [illegible] [illegible] [illegible] ad [illegible] prodimidia [illegible] debent [illegible] [illegible] in l. [illegible] ff. de [illegible] legatis; [illegible] ut [illegible] Stichus [illegible] [illegible] [illegible] [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] ff. de usufructu [illegible]; [illegible] Pamphilus Stichum [illegible] [illegible] [illegible] [illegible] [illegible] pro dimidiam Stichi [illegible], [illegible] Pamphilus [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Paulus [illegible] in d. l. [illegible] Cuiacius in l. [illegible] ff. de [illegible] legatis [illegible] [illegible] [illegible] cap. 7. [illegible] [illegible] 2. select. cap. 16. n.° 2. [illegible] [illegible] [illegible] select. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Cardinal in l. [illegible] 9. §. 1. [illegible] in l. [illegible] [illegible] in l. [illegible] ff. de legatis, [illegible] [illegible] Vide [illegible]

n.° 26.

Restat interpretandum [illegible] difficile [illegible] Pomponii responsum relatum in l. [illegible] 36 ff. de legatis 2.° [illegible] [illegible] proponitur legatum [illegible] [illegible] [illegible] [illegible] nec derogare alteri ut Berneri, [illegible] [illegible] Berneri [illegible] [illegible], igitur [illegible] [illegible] speciale non derogat generali, [illegible] [illegible] [illegible] [illegible] [illegible]; [illegible] difficultatem dissolvamus [illegible] [illegible] [illegible] [illegible] cognoscamus, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] qui ex ancillis [illegible] [illegible] teste [illegible], et Marco Barrino [illegible] 9. [illegible] Cuiacio [illegible] 9. observat. [illegible] 7. Roberto [illegible] 2. [illegible] [illegible] servierant [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] nobiles [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 3. [illegible] 25. = [illegible] [illegible] [illegible] munera [illegible] [illegible] [illegible] [illegible], [illegible] ex [illegible], et Marcelli [illegible] [illegible] [illegible] 2. [illegible] [illegible]

Cf. Coll. ad Decret. coll. 152.

[illegible] [illegible] generaliter [illegible] [illegible] [illegible] generali [illegible]

generaliter

Cum cognito ex a p[ri]d[ict]a difficult[ate] liberemur proponendu[m] est testator in d[ic]ta [lege] Titij habere servos tribus generis quosdam textores, [illegible] vernas, quosdam vernas [et] textores, quosdam denique textores simul, et vernas [illegible] ex [illegible] [illegible] textura videatur [illegible], [illegible] testator [illegible] [illegible] servos habebat Titij textores [illegible] [illegible] [illegible] quod alij legaverat [illegible] legato [illegible] vernas [illegible] legatos legavit, [illegible] in hoc casu sola est dubitatio [illegible] servi qui [illegible] sunt textores, et verni, an v[el] [illegible] legatarij adquirantur, et respondet [illegible] [illegible] [illegible] legatarios esse, et redit rat[io], quia ex tunc dubij [illegible] in casu proposito clausula illa [illegible] [illegible] quos alij legavit, veri [illegible] [illegible] [illegible] [illegible] utriusque legatis [illegible] [illegible] indicabat, [illegible] Titij [illegible] [illegible] [illegible] [illegible] vernas [illegible], [illegible] generale leg[atum] [illegible] [illegible] [illegible] generali [illegible] Felicet [illegible] [illegible] [illegible] [illegible] Titij [illegible] [illegible] [illegible] [illegible] [illegible] quidacre [illegible] [illegible] [illegible] [illegible]. =

Cursus

n. 27

Neque hanc [illegible] [illegible] quod [illegible] [illegible]. servis qq. § [illegible] ff. legat. 3. ubi [illegible] Paulus proponit [illegible] [illegible] testator [illegible] suos servos [illegible] [illegible], [illegible] [illegible] servos specialiter cursores legaverit, et quidam ex vernis cursores sint, cursoribus debent cedere [illegible] [illegible] [illegible] generi [illegible] speciem [illegible], quia [illegible] [illegible] [illegible] [illegible] [illegible] l. servis § finali [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] l. [illegible], quia [illegible] testator [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] genus servorum alteri [illegible] speciem [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] legatis servorum cursorum [illegible] a legato generis, [illegible] [illegible] [illegible] [illegible] legatarius [illegible], hanc [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Paulus [illegible] [illegible] Felicetis [illegible] [illegible]. =

In l. Titij [illegible] legat[um] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Luxur[ius] 4 [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

n. 28.

Deinde ex [illegible] interpretamur Modestinus in l. [illegible] 19 ff. de V. [illegible]

Legato, [illegible] in l. Sibi decem ff. [illegible] [illegible] [illegible] [illegible] [illegible], quibus [illegible] [illegible] testator alicui fundum legasse, [illegible] alij usumfructum eiusdem fundi [illegible], quo facto dubitatur [illegible] [illegible] [illegible] [illegible] [illegible] generali, et speciali legato, generali [illegible] in l. [illegible] § [illegible] [illegible] [illegible] [illegible]

De usufructu legato l. Cum [illegible] 56 § final. [illegible] qui usumfructum 58 ff. de V. O. l. [illegible] [illegible] l. [illegible] filius 96 § [illegible] [illegible]

Legat[um] 2º [illegible] [illegible] usufructus [illegible] [illegible] [illegible], quale [illegible] [illegible] [illegible], et [illegible] [illegible] [illegible] usumfructum legatarius specialis, et legatarius fundi generalis [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] fuit relictus, [illegible] legat[um] speciale generali [illegible]. = [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] cumulantes, [illegible] fuere Cuiacius ff. [illegible] [illegible] Corsanus [illegible] 2 ment. c. 3 n. 2 Petrus Faber [illegible] 2 [illegible] cap. 14 Donellus [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] et [illegible] speciem [illegible], [illegible] [illegible] [illegible] [illegible] [illegible], quia [illegible] genus [illegible] [illegible] species alteri [illegible], valet [illegible] species, propterea [illegible] subtractio [illegible] [illegible] substantia [illegible] [illegible] [illegible] d. l. servis [illegible] [illegible] Luxur[ius] § Felicet [illegible] [illegible] [illegible] [illegible] [illegible] [illegible], [illegible] pars adempta [illegible] [illegible] [illegible] substantiam [illegible] [illegible] [illegible] [illegible] in l. Cum [illegible] ff. de legat. [illegible] [illegible] [illegible] substantialis [illegible] [illegible] intelligitur, ne [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible], in quibus fundus legatus [illegible] [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] qui usumfructum ff. de V. O. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] qui usumfructum [illegible] [illegible] [illegible] § [illegible] ff. de V. O. [illegible] [illegible] alteri fundus, alteri usumfructum legat, [illegible] [illegible] [illegible] usufructus [illegible] alteri specifice, alteri [illegible] [illegible] nomine [illegible] [illegible] [illegible] [illegible], ne [illegible] [illegible] usumfructum a fundo [illegible] [illegible] substantiam. Cuius [illegible] [illegible] legat[um] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Bartholus [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]. =

n. 29.

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] in l. [illegible] 16 § Julianus ff. familiae herciscundae [illegible] [illegible], [illegible] [illegible] [illegible] [illegible] usumfructum fundi [illegible] [illegible] [illegible] usumfructum, [illegible] [illegible] [illegible] [illegible] usumfructum [illegible] [illegible] [illegible] fundi [illegible] [illegible], [illegible] [illegible] [illegible] [illegible] l. recte decimus 25 ff. de V. S. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] Julianus usumfructum [illegible], [illegible] [illegible] in [illegible] familiae herciscundae [illegible] [illegible], ut [illegible] [illegible] [illegible] [illegible] [illegible] § finali ff. [illegible]; quia [illegible] [illegible] inter partes [illegible] [illegible] [illegible] in [illegible] familiae herciscundae, [illegible] fundus [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible], ut [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] familiae herciscundae [illegible] [illegible] [illegible] 27 [illegible] [illegible] [illegible] in l. recte decimus de V. S. [illegible] [illegible] l. 4 ff. de usufructu, [illegible] § [illegible] ff. de usufructu [illegible] [illegible] [illegible] in l. recte decimus ff. de V. S. Donellus [illegible] 10 [illegible] [illegible] [illegible] 9. [illegible] [illegible] de usufructu, et [illegible] [illegible] [illegible] Rolandus [illegible] 3 [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]. =

n° 30

Denique interstanda fuit in l. 2. ff. qui potiores in pignore habeantur, et in l. 4. generaliter 6. C. eod. tit., ex quibus aperte colligitur creditorem bona debitoris generaliter accipientem [illegible] ferendum esse aliis Creditoribus, qui postea speciale [illegible] ex [illegible] obligati generaliter [illegible] non acceperunt [illegible] creditor qui [illegible] specialem habet, et hoc colligendum [illegible] [illegible] regula [illegible] quare denique [illegible] probat hoc ipsa [illegible] in stipulationibus 53. Jasoni [illegible] 49. ff. de V. O. [illegible] hoc [illegible] [illegible] in illis [illegible] in quibus ex voluntate [illegible] generalis et specialis conventio [illegible] ff. de V. [illegible] [illegible] [illegible] Creditor [illegible] generaliter [illegible] qui potiores in pignore habeantur, ubi [illegible] Creditor pignoratitiam [illegible] posteriori speciali [illegible] generaliter obligatis prior Creditor [illegible] bona debitoris [illegible] [illegible] [illegible] l. debitorem 45. C. de pignoribus, [illegible] Creditor [illegible] [illegible] [illegible] l. 9. [illegible] ff. qui potiores in pignore habeantur.

n° 31

Tunc doctrinae [illegible] solet [illegible] difficultas in l. 2. C. de pignoribus [illegible] ex [illegible] [illegible] [illegible] tradunt [illegible] [illegible] [illegible] quia in l. 2. ff. qui potiores in pignore habeantur prior Creditor [illegible] generalis accepit, et in l. 2. C. de pignoribus Creditor specialis [illegible] generali obligat [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] n. 11. Observat. cap. 32. et n. 3. [illegible] Pancirolus in l. 2. ff. qui potiores [illegible] Faber [illegible] cap. 29. Felicianus n. 3. [illegible] cap. 23. Mantica n. 11. [illegible] n. 2. n. 8. Balduinus in [illegible] de pignoribus cap. 9. [illegible] l. 2. C. de pignoribus [illegible] [illegible] [illegible] [illegible] Molina n. 4. [illegible] cap. 3. n. 21. [illegible] n. 7. [illegible] Joannes Guterrez [illegible] 80. [illegible] 44. et alii plures [illegible]

n° 32

Tunc [illegible] [illegible] [illegible] [illegible] in l. idem 7. § 1. ff. qui potiores in pignore habeantur, ubi [illegible] generalis et specialis obligatio et [illegible] speciali [illegible] generali, nec generalis [illegible] [illegible] [illegible] [illegible] Creditor [illegible] [illegible] speciali [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] tradunt Albericus et [illegible] n. 4. [illegible] Cuiacius n. 7. [illegible] [illegible] [illegible] n. 4. [illegible] [illegible] [illegible]

n° 33

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 41. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] n. 17. observat. cap. 25. [illegible] [illegible] ff. de V. O. n. 7. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

Praelectio ad [illegible] inter [illegible] 4. hoc [illegible]

Versiculo 7.

n° 1

Capitis quod iam exposuimus [illegible] [illegible] ad hoc caput in quo [illegible] Alexandri [illegible] [illegible] nobilis et elegans rescriptum extat, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] alternativis 77. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible]

Marginal notes (left):

specialis [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] alternat. [illegible] [illegible] explicata.

Et sub clausula que fuit rescripto petitis illud concepit, Verum si acciderit unum ex predictis verum, alterum autem falsum esse, quid dicimus [illegible] Archiepiscopus [illegible] facere dubitauit, et inter cetera [illegible] uel in [illegible], de hac illa [illegible], quia [illegible] [illegible], ut si uerum [illegible] obiectum, Tibiis [illegible] beneficio, et rescripti impetrant [illegible] ad [illegible] [illegible] in alternatiua [illegible] fuit vera, quod sufficere [illegible] generalis [illegible] [illegible]

n° 2.

Ex hac facti specie [illegible] deduci solet [illegible] scripti quo plura alternatiue mandantur [illegible] aut Vel, seu, aliisque similibus, alterutrius Veritate verificatur, et effectum sortitur. probat hanc [illegible] in l. plerumque 10. in fine ff. de iur. dot., l. si heredi §. ff. de conditionibus institut. l. is qui [illegible] §. interdictis ff. [illegible], aut Clam. l. cum pupillus 78. §. 1. ff. de condit. et demonstrat. l. si quis [illegible] 13 [illegible] ff. [illegible] bus, l. obligationum 44. §. modus ff. de O. et A. l. cum quaerebatur 13. ff. iudicatum solui, l. Gillius ff. [illegible] legabitur, l. [illegible] 63. l. [illegible] 129. ff. de V. O. §. si plures inst. de [illegible] rebus inst. l. in [illegible] 110. [illegible] ubi ff. de [illegible] [illegible] in alternatiuis [illegible] tit. 6. [illegible] facit [illegible] l. 24. tit. 2. p. 5. l. 13. tit. 4. p. 6. [illegible] hanc [illegible] ex antiquioribus, et [illegible] Panormitanus, Felinus, Hostiensis, et [illegible] [illegible] ex recentioribus Petrus [illegible] [illegible] n° 3. [illegible] obseruationum cap. 3. Couarruvias [illegible] cap. 2. ubi [illegible] et [illegible] Gutierrez [illegible] 1. [illegible] 22. [illegible] [illegible] alii quos [illegible] [illegible] Academicus [illegible] [illegible] Antonius de Pichardo in [illegible] de [illegible] inst. D. D. Joannes Melchior de Valencia tit. 2 [illegible] tract. 4. [illegible]

n° 3.

Sed licet hanc [illegible] authoritatibus confirmata Verissima sit, in nullo [illegible] dubitatis [illegible] prouenit, nam quotiescumque plura in aliquo rescripto mandantur principaliter, [illegible] debent [illegible] et adimpleri, ut [illegible] fiat, [illegible], probant hoc expresse [illegible] cap. cum dilecta de [illegible] cap. [illegible] rabili 37. de off. et pot. iudicis delegati cap. finali de [illegible] cap. statutum 11. §. finali [illegible] tit. [illegible] [illegible] continentur, et quod filius est sacerdotis beneficium detinet, et quod illicite [illegible] obtinuisset; ut [illegible] colligitur, [illegible] de [illegible] duobus erat inquirendum, nec forma rescripti recederetur; [illegible] [illegible] sufficere alterutrum illis verificari, adhoc ut rescriptum [illegible] valeat et teneat. [illegible] debuit verificari [illegible] [illegible] ordinis qui plerumque in rescriptis, [illegible] quae similibus rebus alterius [illegible] [illegible] ff. de usufruct. l. [illegible] 68 ff. de haeredibus instituendis l. generaliter 24. §. proinde, [illegible] ff. de fideicommissariis libertatibus [illegible] [illegible] late tradit Mascardus [illegible] de probationibus [illegible] 1229 n° 20, et 24. [illegible] plura alia [illegible] in terminis [illegible] [illegible] replicarde. =

n° 4.

Secundo quatenus [illegible] asseritur [illegible] [illegible] subalternatiue [illegible] Valide [illegible] [illegible], nam alternatiua quandam incertitudinem in se continet, [illegible] que stipulatio alternatiua dicebatur inutilis in l. item g. §. ult. cum legibus [illegible] ff. de stipulat. [illegible] certa [illegible] in [illegible] 75. §. [illegible] de V. O. l. [illegible] 7. §. quod autem ff. de iniuriis, et [illegible] similiter electio [illegible] alternatiua reprobatur in cap. [illegible] de elect. [illegible] tit. 6. [illegible] predicto modo concepta sunt [illegible] et [illegible] similiter rescriptum [illegible] [illegible] [illegible] modum [illegible] inutile debuit esse [illegible] potuit, quantumuis alterutrum [illegible] Verum [illegible] =

n° 5.

Sed [illegible] sit sacerdotis filius, [illegible] Sacerdotio genitus, qui proximo in tali ecclesia ministrauit, ex quibus probari videtur, [illegible] [illegible] tatus est, [illegible] esse incapaces attento [illegible] beneficii paterni immediate [illegible] sunt legitimi [illegible] [illegible], [illegible] ad [illegible] [illegible] de filiis presbiterorum, quarum sensum sit illegitimus et incapax [illegible] [illegible] ex defectu natalium, [illegible] parentis in illa ecclesia de proximo ministrauit, legitime [illegible] immediate, et nulla persona media, succedere [illegible] igitur superuacuum videtur. [illegible] illegitimo immediate, cum idem in legitimo seruetur, et superfluum [illegible] ut filius sit sacerdotio genitus, et quod de proximo pater eius in illa ecclesia ministrauit [illegible] alterutrius [illegible] beneficii [illegible] [illegible] dicendi. =

n° 6.

Denique illa verba vel quod illicite [illegible] [illegible] obtinens beneficium illicite, id est absque canonica institutione [illegible] priuandus esse, [illegible] tale beneficium accepit [illegible] efficitur, plures [illegible] penas [illegible] in cap. [illegible] 43. [illegible] [illegible] [illegible] Suarez de censuris disp. 31. sect. 3. n° 42. et [illegible] Petrus [illegible] [illegible] cap. 5. [illegible] Garcia de benef. [illegible] cap. 3. [illegible] in cap. cum [illegible] 21. [illegible] [illegible] beneficium, vel dignitatem de manu laici obtinens in [illegible] permanere [illegible], [illegible] [illegible] asseritur [illegible] priuandus beneficio, quantumuis verificetur illud illicite occupasse, [illegible] Alex. [illegible] facta fuit. =

His [illegible] ut [illegible] faciamus [illegible] [illegible] [illegible] [illegible] decreuimus, ideo [illegible] rescriptum impetratum ut [illegible] beneficium auferatur [illegible] alternatiua; V. si filius sacerdotis sit, uel eam illicite occupasset, [illegible] alterutrius verificatur, quia [illegible] cumque aliquid alternatiue [illegible] diuersis [illegible] ad verificandum sufficit [illegible] [illegible] [illegible] [illegible] ff. de conditionibus et demonstrat. [illegible]

Marginalia:

Ant. Gomez tit. 2. var. refutat cap. [illegible] qualitatibus [illegible] n° 20.

+ [illegible] pecto, et teneat

+ [illegible] verificet

+ nec [illegible] ut filius [illegible] beneficium [illegible] ut [illegible] pater [illegible] ministrauerit, [illegible] [illegible] in illa [illegible]

Ubi cum [illegible] delegato relicto modo alternatiua, sequentia proponit. Thas unam conditionem exprimunt habentes duas [illegible]. Quae ita manifeste probant dispositionem alternatiuam unius tantum esse in effectu et sic sufficere verificari in una aliis [illegible] [illegible] et [illegible] ad illud ff. de legatis 2°. l. Cum illud 25. ff. quando dies legati cedat, quibus docetur quod [illegible] aliquid alternatiue legatur, v. illud aut illud, unum tantum legatum, non plura legata [illegible] traditur, quia dispositio alternatiua unius tantum continetur. Ulterius cum tu alternatiue [illegible] aliquid [illegible] in rescripto; sufficiens est alterum probari et verificari, quia unius interest unum tantum reputatur, ad hoc ut [illegible] [illegible] beneficio [illegible] impetrans tribuatur. = Ex quo [illegible] regula generalis, quoad [illegible] institutiones, legata, [illegible] et [illegible] ut si alternatiue fiant sufficiat alterum verificari ad hoc ut effectum habeat dispositio, ut [illegible] ex [illegible] in confirmationem [illegible], quod [illegible] resoluere [illegible] [illegible] nam si [illegible] alternatiue [illegible] imponatur, sufficit alteram deliberari [illegible], nec requiritur quod utraque imponatur, l. si fugitiui 3. l. quicunque C. de seruis fugitiuis, [illegible] an [illegible] [illegible] delinquentes [illegible], [illegible] Pyrrhus [illegible] panormitanus [illegible] n. 5. Felinus n° 9. [illegible] et Menochius de arbitrariis [illegible], tradentes [illegible] decidendam [illegible] antiquorum [illegible] sequentes [illegible] aliorum [illegible] qui adhuc [illegible] omnia [illegible] =

n° 9.

Ex his ascidendo [illegible] iam veniunt dissoluendae difficultates superius [illegible] adductas. Itaque [illegible] 1° deducta ex cap. cum dilecta 22. [illegible] cum similibus, quibus probatur quod si in rescripto plura mandentur omnia debent [illegible], et ordo scripturae attendi debet [illegible], q[uod] breuiter dicendum est [illegible] procedere [illegible] omnia principaliter mandata [illegible] [illegible] voluntas rescribentis omnia debent adimpleri, [illegible] et ordo scripturae debet obseruari. Non autem tum loquitur et procedit quando [illegible] ex duobus praecipue [illegible] mandata, sed potius utrumque alternatiue, quia [illegible] [illegible] datur [illegible] probandi alterutrum [illegible] quam [illegible] impetrator, nec [illegible] scripturae ordo [illegible] attenditur, [illegible] obseruatur, quod [illegible] [illegible], aut voluntas [illegible] aliud suadet, l. [illegible] faber 77. §. fideiussor ff. de legatis 2°. l. nec [illegible] ff. de solutionibus cap. [illegible] 28. hoc [illegible] rescriptis, [illegible] plurimis [illegible] [illegible] [illegible], et [illegible] beneficiis [illegible] dibet [illegible] impedimentum [illegible], docentes [illegible] Joannes Andreas Cardinalis Zabarella [illegible] de electione [illegible] opposit. n° 9. [illegible]

[illegible]

Verum solutionem tamen verissima [illegible]. [illegible] difficilius redditur, et impugnari videtur ex dicto [illegible] cap. mandato de [illegible] [illegible] et [illegible] 6 [illegible], si [illegible] plura beneficia ad [illegible] collationem forsan expectantia simul vacent, tunc scripturae ordinem seruare habeat, ut illi solum prouideat de illo beneficio quod ad te noscitur pertinere, ex quibus [illegible] [illegible] antecedentibus aperte colligitur in rescripto alternatiuo ordinem scripturae seruari, [illegible] [illegible] recte dicimus in [illegible] rescripto sufficere alterutrum adimpleri [illegible] scripturae ordine [illegible] seruato. Cui difficultati ut satisfaciamus supponimus [illegible] cap. mandato duos [illegible] casus. 1° quando mandatur prouideri de beneficio cuius collatio [illegible] ad te uel ad alium, tunc enim mandatum adimpleri debet in [illegible] beneficio quod vacauerit. 2° casus [illegible] simul duo beneficia vacarent, quae in rescripto alternatiue [illegible] nebantur, quo in casu [illegible] ordinem scripturae prouisio facienda de beneficio [illegible] in alternatiua fuerit nominatum, quo in casu ideo attenditur scripturae ordo, quia cum mandatum [illegible] prouidendo [illegible] ad unum ut conferat beneficium quod ad ipsum aut ad alium pertineat, et [illegible] voluntate [illegible] conferre, posset [illegible] ut [illegible]; [illegible], [illegible] alterum damno afficeret; ob hoc vitanda, [illegible] et [illegible] ut [illegible] ordinem [illegible] [illegible] ferat, [illegible] [illegible] conferre debet, [illegible] [illegible] in l. [illegible] 7. ff. de [illegible] l. 2. §. [illegible] ff. de [illegible] loco, l. sub hac 7. ff. de O. et A. l. stipulatio 17. [illegible] §. ult. ff. de V. O. [illegible] [illegible] [illegible] [illegible] cessent [illegible] inconuenientia, ordo [illegible] attendi [illegible] rescripti, sequitur [illegible] sufficit alterum [illegible] adimpleri, docent [illegible] [illegible] [illegible] casu [illegible] Dominicus Sanduarius [illegible] [illegible] mandato 23. [illegible] =

n° 10.

Plurimum obstat 2a difficultas [illegible] ex d. l. item 9. §. ult. ff. de stipulat. seruorum, ex quibus [illegible] [illegible] in [illegible] rescripto [illegible] ff. incertitudinem, quam secum affert alternatiua, [illegible] in dicta [illegible] stipulatio, [illegible] [illegible] celebrata [illegible] difficultati satisfaciamus [illegible] alternatiuam [illegible] valde [illegible] [illegible] [illegible] dicimus [illegible] [illegible] [illegible] aut [illegible] [illegible] [illegible], l. [illegible] 57. ff. de V. S. [illegible] articulo aliquid [illegible] [illegible], velut Titius et Maeuius [illegible], l. [illegible] 242 ff. de V. S. [illegible] [illegible] Quaranta [illegible] de iure accrescendi c. 13 [illegible] quam alternatiuam [illegible] dicimus, [illegible] articulo [illegible] separat hoc modo aut, vel, siue, seu [illegible] [illegible] terminis, l. si quis 9. ff. de [illegible] l. 2. §. [illegible] ff. de [illegible]

l. [illegible] 25. [illegible] ff. [illegible] legati cadat, veluti ille aut ille heres esto l. 4. ff. de V. S. l. 4. [illegible]. Denique [illegible] oratio dicitur quae nec [illegible], nec [illegible] continet, veluti Titius [illegible] heres esto l. alienationis § [illegible] l. [illegible] §. [illegible] ff. de V. S. =

n.º 11.

Supponimus 2.º [illegible] proximo [illegible] usurpari. Prioris rei exempla extant in l. [illegible] ff. de V. S. l. [illegible] ff. de legat. [illegible] de auro, et argento legato, l. generaliter C. de instit. et substit. l. si [illegible] § ult. ff. [illegible] l. [illegible] ff. de [illegible] Posterioris casus exempla sunt in l. [illegible] 29. ff. de V. S. l. [illegible] § [illegible] legum [illegible] 122. § [illegible] ff. de V. O. l. [illegible] si quis l. 2. l. sicuti [illegible] privata l. [illegible] ff. de usufructu legato, [illegible] pluribus aliis exemplis [illegible] Alciatus, Cujacius, et [illegible] l. [illegible] ff. de V. S. Denique [illegible] cap. 17: [illegible] oratio [illegible] alienationis 28 § ult. ff. de V. S. [illegible] ff. de V. S. [illegible] exempla proponunt [illegible] Bartolus, Alciatus et [illegible] § ult. =

n.º 12.

Denique animadvertimus [illegible] alternativam [illegible] [illegible] ff. de [illegible] veritati [illegible] ad quatuor reduci posse. 1.º alternativa [illegible] l. [illegible] 16. ff. de legat. 2.º l. [illegible] l. [illegible] ff. de constit. [illegible] l. 4. C. de V. S. = 2.º alternativa [illegible] l. 4. [illegible] § ult. ff. [illegible] § [illegible] ff. de legat. 1.º = 3.º alternativa [illegible] l. 2 [illegible] ff. de [illegible] 4.º alternativa [illegible] temporis, [illegible] l. sita [illegible] ff. de V. O. l. sita 41. § ult. ff. de legat. 2.º et [illegible] speciebus quaelibet alternativa vel ab homine, vel a lege proferetur, et utrique [illegible] alterutrius adimpleto effectu [illegible] [illegible] elegantissime [illegible] animadversionum [illegible] cap. 21. qui satisfacit [illegible] debere observari inter alternativam [illegible] et ab homine [illegible] =

n.º 13.

[illegible] brevitate ac claritate [illegible] animadversionibus [illegible] interpretatione [illegible] difficultatis [illegible] quia [illegible] alternativam excludat tamen [illegible] cap. 2. de elect. [illegible] tamen lex requirat omnino [illegible], ideoque alternativam excludat tamen [illegible] rescripti [illegible] voluit, ut altera ex alternative [illegible] rescripti [illegible] nec ad [illegible] ult. ff. de [illegible] quia tractat [illegible] [illegible] appellationi [illegible] cui [illegible] [illegible] appellatio [illegible] ult. ff. de appellatione [illegible] l. [illegible] § [illegible] ff. de V. O. [illegible] Barbosa [illegible] 45 [illegible] 14. [illegible] rescripti [illegible] et appellationi [illegible] quibus [illegible] =

n.º 14.

Deinde [illegible] difficultatis [illegible] et deducta ex [illegible] cap. ad extirpandas [illegible] filiis presbyterorum, nam [illegible] depender [illegible] [illegible] quod si [illegible] sacerdotum filiis et in sacerdotio genitis, quae [illegible] beneficium [illegible] quod [illegible] Alexander [illegible] vellet in [illegible] demonstrare, itaque [illegible] Panormitanus et Felinus [illegible] Cardinalis [illegible] [illegible] filii sacerdotum [illegible] beneficia [illegible] [illegible] nec necessarium [illegible] = [illegible] [illegible] quod impetrator [illegible] proposuerat, [illegible] quod beneficium [illegible] filius erat sacerdotis [illegible] immediate obtinuerat, ut aperte [illegible] Cum rescripta concedi soleant [illegible] merito ad hanc facti speciem, quae [illegible] fuerat proposita respondit [illegible] rescribendum [illegible] filio [illegible] immediate [illegible] obtineret [illegible] [illegible] nec [illegible] ad hoc ut excludatur a beneficio, [illegible] filius sacerdotis [illegible] genitus, [illegible] de proximo in illa [illegible] tradit hanc [illegible] [illegible] ad extirpandas de filiis presbyterorum. =

n.º 15.

[illegible] qualiter [illegible] Constitution[illegible] quam [illegible] [illegible] 36. [illegible] cap. [illegible] filius illegitimus [illegible] paterna [illegible] in qua [illegible] [illegible] cap. [illegible] de filiis presbyterorum [illegible] [illegible] tradunt Barbosa [illegible] 46. Nicolaus Garcia de beneficiis [illegible] cap. 5. [illegible] filius [illegible] ex quibus [illegible]

Cad attentionis beneficiorum et dignitatum, et ad hoc ut possint [illegible] minoribus ordinariis ordinibus [illegible] hoc [illegible] explicari poterat, vergit ad rescripta alternativa [illegible] Omittimus, et videamus de illis omnibus [illegible] antiquiore [illegible] respectu ad dicta jura. [illegible] Nicolaus Garcia [illegible] Salcedo in praxi Canonica [illegible] Petrus Gregorius de beneficiis cap. [illegible] Thomas Sanchez [illegible] dubio 4. n.° 2. [illegible] de re beneficiaria q. 48. n. 474. Quarenus [illegible] 4. de [illegible] cap. 7. Barbosa in remissionibus ad Concilium Trid. [illegible] cap. [illegible] Barbosa [illegible] allegat [illegible] alii quos plures [illegible] relati [illegible] =

n.° 16.

Denique [illegible] restat posterior difficultas quam [illegible] adduximus, deductam ex cap. Cum Vintoniensis [illegible] de elect. quo probare intenderamus accipientem benef. de manu laici inhabilem mansurum [illegible] itaque ut [illegible] et interpretemur: animadvertimus [illegible] exempli quo [illegible] Pontifex utitur [illegible] de illicita [illegible] occupatione. Cuius rei plura exempla in iure [illegible] 1.° [illegible] qui propria auctoritate beneficium [illegible] de facto occupat in [illegible] episcopi [illegible] ad quos de facto [illegible] pertinere beneficii collatio cap. ex frequentibus 3.° de institutionibus, cap. Cum iamdudum 18. de praebendis et dignitatibus, cap. quia diversitatem 5. de concess. praebend., cap. Cum qui 28. de praebend. [illegible] Nicolaus Garcia de beneficiis [illegible] cap. [illegible] n.° 208. = 2.um exemplum est [illegible] qui [illegible] beneficium de manu laicali [illegible] cap. quisquis 43. de elect. [illegible] cap. [illegible] laicos [illegible] 7. = 3.um [illegible] qui [illegible] beneficium [illegible], vel [illegible] [illegible] habente potestatem cap. 2. de in integrum restitut., cap. ult. de excessibus praelatorum, et denique [illegible] 16. de elect. [illegible] Salcedo in praxi Canonica cap. 49. Petrus Gregorius in cap. [illegible] judicis ordinarii [illegible] de beneficiis [illegible] alii quos plures [illegible] Barbosa [illegible] allegat 57. n.° 10. = [illegible] cap. [illegible] de elect. [illegible] laicorum nominatos [illegible] admitti, [illegible] sicilicet [illegible] de [illegible] cap. quisquis 43. de elect., sufficit [illegible] beneficiis [illegible] elegit [illegible] Salcedo [illegible] =

n.° 17.

Ex his omnibus [illegible] [illegible] per tandem nulla [illegible] infertur [illegible] cap. [illegible] Lex [illegible] de rescriptis, [illegible] Ferdinand. de [illegible] renuntiasse praebend., [illegible] abla, ex quibus [illegible] alternative sive copulative aliqua proponantur [illegible] requiritur, [illegible] sufficit quod alterum probetur, [illegible] quamvis in [illegible] objectiones copulative essent objectae, satis erat alterum probari, ac proinde [illegible] fuerunt in rescripto alternative facta: Hanc difficultatem [illegible] Felinus in [illegible] cap. 2. n.° 11. Decius n.° 8. [illegible] ut quemadmodum [illegible] variis [illegible] [illegible] dicendum [illegible] in rescripto, [illegible] quorum alterum sufficit ad [illegible] de qua agitur, satis est illud unum probare, [illegible] utrumque simul requiri, [illegible] non [illegible] in [illegible] cap. [illegible] in [illegible] cap. 2.° [illegible] Cuius [illegible] actibus extraiudicialibus, in quibus [illegible] utrumque [illegible] sufficit alterum probare, supervacua probatione [illegible] L. [illegible] [illegible] Extraiudicialia [illegible] [illegible] in dubio [illegible] servare [illegible] [illegible] a Principis voluntate pendeant [illegible] voluntas [illegible] cap. [illegible] L. [illegible] de vulgari et pupillari substit., merito in his exemplo [illegible] sufficit alterum probare. [illegible] procedat tantum in rescriptis [illegible] ad observantiam [illegible] [illegible] debent, [illegible] in rescriptis [illegible] Tiraquellus in tract. [illegible] n.° 24. Nicolaus Garcia de beneficiis [illegible] 6. [illegible] cap. [illegible] n.° 13. [illegible] refert [illegible] = [illegible] in cap. [illegible] de praebendis et dignitatibus cap. [illegible] 19. [illegible] cap. [illegible] significantibus [illegible] [illegible] Thomas Sanchez [illegible] disp. 11. n.° 42 [illegible] =

n.° 18.

[illegible] quam [illegible] agitur de rescriptis [illegible] et tamen ut alterum sufficiat asseritur alternative [illegible] narratum [illegible] si copulative proponerentur, [illegible] dicendum [illegible] cap. [illegible] Ven. [illegible] difficultas [illegible] admittimus, [illegible] illud [illegible] admittere. = [illegible] si dicamus in [illegible] alterum sufficere [illegible] omnia [illegible] narrata [illegible] sint necessaria. [illegible] sufficiant, [illegible] [illegible] Cum iamdudum [illegible] de praebendis et dignitatibus. [illegible] [illegible] [illegible] satisfacit [illegible] [illegible] Thomas Sanchez [illegible]

q[uo]d a haeres expectantes inveniri potuerint, et uxores illi provenit et dedit, q[uo]d ad impetrandam dispensationem [illegible]
eas finales ab impetratoribus proponantur, eos sine falsis, nisi una valeat dispensatio tam ab impleta aliqua re ex [illegible]
[illegible] impetratis. =

Secundo ex lata decidendi ratione et interpretandi difficile [illegible] Paulus responsum [illegible]

n° 19.

in l. si quis ita 30 ff. de auro et argento legato, ex cuius textu aperte colligitur q[uo]d si legetur mundus vel mundus ornamentum seu
[illegible] cum sunt parata, adhuc ut eius voluntati satisfaciat omnia debentur, et si sub illa alternativa seu [illegible]
relictum, nec sufficit alterum praestare; [illegible] quemadmodum in legato alternativo necesse ut [illegible] idem ut utrumque
adimpleatur, ita similiter in rescriptis [illegible] necessarium [illegible] utrumque verificari [illegible]
Hanc difficultatem ut effugiant Accursius Bartolus et alii ex antiquioribus [illegible] l. 30. putant in legato illam dictionem seu
quae [illegible] videtur [illegible] propriae et alternativae, sed potius coniunctive vicem subire, et ideo [illegible] ampliandi legati gratia
ibi [illegible]. Verum expositionem hanc tamquam [illegible] rejiciunt Cobb. [illegible] Variarum cap. 5. n° 10, [illegible]
[illegible] Madera animadversionum iuris cap. 22. ad q[uo]d movere [illegible] quibus [illegible]
propriam dictionem seu est alternativa, l. 1. § 2 sublata ff. ad Trebellianum, l. generali 4. C. de [illegible]. = [illegible]
[illegible] omissis verum [illegible] generaliter accipiendum, et restringendum ad [illegible]
[illegible] quorum [illegible], ut [illegible]
ornamenti seu [illegible] parata [illegible] quae [illegible] parata sunt [illegible] solent parari,
[illegible] ornamenti [illegible] debentur quamvis aliter alternative [illegible] debentur, [illegible]
in ultimis voluntatibus [illegible] debeant attendi [illegible] Cobb. et [illegible] Cujacius [illegible] 26 observat. c. 4
ff. 20. cap. 17. Emanuel Costa [illegible] select. cap. 4. n° 5.

3° [illegible] qui [illegible] § Ita, et §

n° 20.

ultimo ff. de verborum obligationibus ex quo desumitur in illa stipulatione, si Stichum aut fundum [illegible] centum, [illegible]
utrumque esse faciendum nec stipulatio [illegible] stipulationibus [illegible] sufficit q[uo]d alterum fiat, ac [illegible]
[illegible] similiter utrumque adimpleri necesse videbatur. Huius difficultatis dissolvendae gratia [illegible]
Cardinalis Zabarella [illegible] plerique alii ex antiquioribus existimant in alternativa [illegible]
[illegible] alterum [illegible] et hoc casu procedere [illegible]. Verum [illegible] alternativa [illegible]
[illegible] l. [illegible]
Alij [illegible] Accursius [illegible] Otomanus [illegible] observat. [illegible]
librarij [illegible] emendatione [illegible]
[illegible] Bartolus Alvarus et Costa [illegible] utrumque [illegible]
[illegible] nihil [illegible] alterum [illegible]
[illegible] stipulationi [illegible] ita ut [illegible] stipulatione [illegible] alterum fiat; [illegible]
illam conditionem, atque [illegible] stipulationi [illegible] fiat, sive alterum fiat; [illegible]
[illegible] Cujacius [illegible] sufficere ut alterum [illegible] verificetur, [illegible]
[illegible] Donellus [illegible] Madera ubi [illegible] cap. 24 [illegible]
[illegible] ff. de verborum obligationibus. =

4° [illegible] videtur [illegible] l. generaliter C.

n° 21.

de institutionibus et substitutionibus, ubi in fideicommisso sub duplici alternativa relicto [illegible] sufficit alterum existere, [illegible]
utrumque intervenire oportet ut fideicommisso locus sit, [illegible] similiter [illegible] utrumque erat. Verum
[illegible] difficultati [illegible] omissis aliquorum solutionibus respondendum putamus in d. l. generaliter alternativam
accipi [illegible], et ideo [illegible] fideicommissi [illegible] institutionem [illegible]
ex [illegible] diversos [illegible] conditionibus institutionis cap. [illegible] Sarmiento in l. Gallus § Quidam
ff. de liberis, et posthumis existimant [illegible] favore liberorum. [illegible] Verum [illegible] fundari et dependere ex [illegible]
testatoris mente, et [illegible] ex illa conditione si sine liberis, [illegible] Bartolus [illegible] Madera animadversionum
iuris cap. 38. Antonius Faber [illegible] cap. 108. [illegible] l. [illegible] 85. [illegible]
instituendis, ubi [illegible] duabus conditionibus alternativis [illegible] admitti [illegible]
[illegible] alternativam [illegible]
de verborum obligationibus [illegible] animadvertit [illegible] Costa [illegible] =

n° 22.

5° [illegible] l. Quidam 4. C. de [illegible] ex cuius [illegible]
deducitur in alternativis [illegible] alterum [illegible] necesse [illegible] utrumque adimpleri q[uo]d [illegible]
Verum ut huic difficultati satisfaciamus dicimus Imperatorem Justinianum in d. l. 4. [illegible]
[illegible] alternative [illegible] 27. [illegible]
[illegible] multum [illegible] alternat[illegible]

aut, afferit quod quaerit hereditas legatarius, libertas, aut veniunt data relinquitur, hac forma illi aut illi, alternativa oratio benigne accipiatur providendo, ut aut uterque heres legatarius, liber, vel tutor sit, quod de novo admittat [illegible] incertitudo [illegible] legati libertatis, ac tutela [illegible] in l. item [illegible] ult. ff. de [illegible] [illegible] legatis, explicant post antiquiores, Cujacius, [illegible] et Merlinus [illegible] Matthaeus animadversionum cap. 84. =

nº 23

[illegible] obstare videntur [illegible] l. [illegible] 16. ff. de legatis 2º et l. [illegible] 27. ff. de [illegible] tamen tutela ex quorum speciebus aperte colligi videtur alternativam [illegible] debere [illegible] accipi. de quorum [illegible] Bartolus, et [illegible] 23. Cujacius tractatu 8. ad Africanum ad leges [illegible] [illegible] 3. [illegible] Antonius Faber in jurisprudentia Papinianea [illegible] 12. [illegible] et [illegible] Baldus [illegible] 4. [illegible] quos hic [illegible] [illegible] Baldus [illegible] beneficium illi aut illi, [illegible] l. 4. [illegible] placet [illegible] 38. [illegible] in l. [illegible] ff. [illegible] 17. [illegible] beneficiis [illegible] 20 cap. [illegible] 26. [illegible] dignitatibus [illegible] [illegible] patronatus [illegible] 2. [illegible] 28. n. 55. Nicolaus Garcia de beneficiis [illegible] cap. 4. [illegible] 2. cap. 2. n. 5. [illegible] plures quos refert et sequitur Barbosa in [illegible] =

nº 24.

[illegible] in l. [illegible] ff. de conditionibus et demonstrationibus [illegible] videtur obstare. [illegible] alternativa [illegible] in legato [illegible] [illegible] Facile [illegible] difficultatem [illegible] accipi [illegible] alternativa [illegible] separatim [illegible] partibus orationis [illegible] accepta [illegible] l. ab diversis [illegible] [illegible] [illegible] l. Si mihi 22. §. [illegible] legatis [illegible] [illegible] et conditionibus [illegible] [illegible] liberis [illegible] ult. ff. [illegible] l. [illegible] 17. ff. de [illegible] [illegible] tacite [illegible] conditionibus [illegible] Antonius Faber [illegible] 4. [illegible] 97. [illegible] 2. [illegible] [illegible] [illegible] [illegible] alternativam [illegible] Nos [illegible] ut [illegible] faciamus. =

27. §. 9. [illegible] [illegible] §. [illegible] ff. [illegible] demonst.

nº 25.

[illegible] hic [illegible] duo brevibus animadvertenda [illegible] [illegible] alternativis, [illegible] creditoris [illegible] Sit. [illegible] l. [illegible] 10. §. ult. ff. de [illegible] [illegible] ff. de [illegible] loco, l. [illegible] 25. [illegible] 84. §. [illegible] ff. [illegible] l. [illegible] 75. §. ult. [illegible] ff. de legatis 1. l. [illegible] 20. ff. [illegible] 95. ff. de solutionibus l. [illegible] 75. §. [illegible] l. [illegible] 106. [illegible] 1. ff. [illegible] [illegible] [illegible] in l. [illegible] 47. ff. de [illegible] = [illegible] alternative [illegible] l. [illegible] 2. [illegible] ff. de [illegible] 84. §. [illegible] ff. de legatis 1. [illegible] l. [illegible] ff. de [illegible] l. [illegible] 3. §. ult. ff. de legatis 2. [illegible] Faber ff. C. [illegible] =

[illegible]

27.

[illegible] tamen [illegible] in alternativis duo in obligatione sunt [illegible] l. [illegible] 16. l. ult. 75. §. [illegible] l. [illegible] 128. ff. de V. O. l. [illegible] §. Si [illegible] ff. [illegible] §. [illegible] ff. de [illegible]

l. si illud § 5. ff. de constituta pecunia. quod etiam expectant [illegible] in l. 10. § ultimo ff. de legatis 1° l. si illud 27 ff. de legatis 2°
l. Cum illud, aut illud 25. ff. quando dies legati cedat, in quibus unius dicitur, quod si duo alternative legentur, [illegible] [illegible]
[illegible] debet dici, quia tantum alterutrum debetur, licet aliud sit et observetur in aliis rebus [illegible] [illegible] l. 2. ff. de legatis 2°

L. Si quis servus § 51.

necessitatis in [illegible], l. scire debemus 29 ff. de V.O. = Nec relevat [illegible] [illegible] [illegible] in l. plane
§ [illegible] ff. de leg. 1° et l. si quis § [illegible] ff. de legatis 2° nec in [illegible] in l. [illegible] 26 ff. de conditionibus et demonstrationibus
[illegible] 6. § 1 ff. de iure patronatus, l. ult. § si qui operas ff. quod [illegible]. Verum [illegible] [illegible]
[illegible], cum Bartolo et Paulus Castrensis subscribunt [illegible] l. [illegible] scripsit [illegible] Cuiacius lib. [illegible] [illegible]
illud 25. ff. quando dies legati cedat. et [illegible] observat. [illegible] [illegible] [illegible] cap. 16. n. 36. [illegible] [illegible]
[illegible] explicationes [illegible], cum [illegible] opera [illegible] [illegible]
Dr. [illegible] Melchior de Valentia lib. 2. illustrium tract. 4. cap. 5. et [illegible] dicta [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] Trinitatis [illegible], [illegible]
ad [illegible] [illegible] laude cedant. =

Ex D. [illegible] ad [illegible] in cap. [illegible] 7. [illegible]
De rescriptis ubi [illegible] sede va-
cante aliquid innovetur
[illegible]

Illam epistolam Decretalem [illegible] Alex. 3. quam obscuram et difficilem appellat [illegible] Cardinalis Zabarella in
explicandis aggredimur, cuius mandato [illegible] elucidemus, demoram [illegible] exordiemur. Sic se habuit. Quidam
[illegible] ad fidem Christianam conversus litteras impetravit ad Decanum et Capitulum cuiusdam Ecclesiae Cathedralis, ut eum in
in Canonicum reciperent, eidemque praebendam vacantem conferrent; qui cum litteras capitulo exhibuisset [illegible]
[illegible] detrectavit [illegible] praebendarum collatio ad Capitulum pertineret, [illegible] [illegible] [illegible]
[illegible] [illegible] litteras praesentavit, quas ipse executioni mandare nequivit [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] coram Romano Pontifice [illegible], qui rescripsit [illegible] [illegible] [illegible]
mandatum quia tempore litterarum erat [illegible] [illegible] Canonicis [illegible], [illegible] poterat [illegible] [illegible]
quominus ea exequeretur, [illegible] mandat, ut ui prioris mandati ad Capitulum sede vacante [illegible]
recipiat conversum in Canonicum et ei [illegible], et locum in Capitulo assignet. =

Ex qua facti specie, [illegible] Antonius Augustinus in 2. [illegible]

n. 2.

[illegible] lib. 1. tit. 2. cap. 3. valde dubitant [illegible] quam [illegible] [illegible] gravitatis ac varietatis [illegible]
[illegible], qui in [illegible]. Nos quidem [illegible] [illegible] vestigia quorundam antiquorum [illegible] hanc deducendam [illegible]
[illegible] Rescripto ad conferendam praebendam directo ad Capitulum [illegible] Vicar. gerens, [illegible] Capitulo postea [illegible]
Cum quem praebendarum Collatio pertinet, [illegible] temperare debet, [illegible] probat hanc [illegible] [illegible] [illegible]
[illegible] sede vacante aliquid innovetur [illegible] cap. Cum [illegible] [illegible] et obedientia [illegible]
9. de [illegible] cap. [illegible] 7. de [illegible] cap. [illegible] 7. de [illegible] [illegible] [illegible] [illegible]
Supplendam [illegible] cap. [illegible] [illegible] 43. de [illegible] cap. [illegible] de [illegible] cap. unico § cum
[illegible] finali ne sede vacante lib. 6. cap. Cum [illegible] [illegible] [illegible] ordinandum [illegible] cap. [illegible]
[illegible] lib. 6. cap. [illegible] cap. fraternitatis 71. dist. [illegible] 24. de [illegible] [illegible]
in l. 9. [illegible] exornant [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] cap. 38. ubi pluribus [illegible] disputat [illegible] Capitulum sede vacante [illegible] beneficia [illegible] [illegible]
[illegible] [illegible] [illegible] de beneficiis [illegible]. [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] 23. n. 29. Gonzalez ad reg. 8. Cancellariae [illegible] 4. [illegible] n. 35. [illegible]
[illegible] de iure patronatus [illegible] 4. q. 2. Nicolaus Garcia de beneficiis [illegible] 5. cap. 7. [illegible] [illegible]
[illegible] [illegible] ne sede vacante [illegible] [illegible] [illegible] [illegible] Barbosa [illegible] [illegible] [illegible]

n. 3.

[illegible] [illegible] [illegible] [illegible] praebendam [illegible] rescripti [illegible]
[illegible] [illegible] [illegible] excusationis [illegible] Capitulo, quam [illegible] [illegible]
Capitulo litteras [illegible] [illegible] executioni mandare [illegible] [illegible] praebendarum collatio [illegible]
[illegible] licet Capitulum sede vacante [illegible] iurisdictioni succedat [illegible] [illegible] [illegible] [illegible]

Collationibus [illegible], nam [illegible] quodam [illegible] ad [illegible] et [illegible] exercitant, [illegible] suspendere, et [illegible] in cap. ult. [illegible] negligentia collatorum [illegible] conferendi [illegible] nec [illegible] probat [illegible] quatenus [illegible] excusatio Capituli, [illegible] ad eum solum spectandam collationem [illegible] non omissa [illegible] Butrio [illegible] 4 [illegible] venit Capitulo [illegible] et minus [illegible] multi [illegible] aliis [illegible] opinionibus [illegible] dicendum est aliter [illegible] privilegio [illegible] spectandam collationem [illegible] sicut [illegible] consuetudine potest evenire ut [illegible] ad solum Capitulum [illegible] cap. [illegible] 31. de elect. [illegible] Panormitanus [illegible] ad [illegible] Cancelarius [illegible] 45. §. 2. n.° 71. Nicolaus Garcia [illegible] n.° 72. =

n.° 4.

[illegible] excusatio [illegible] mandatis Apostolicis [illegible] in hoc [illegible], quia [illegible] ad Capitulum tantum [illegible] Sede vacante [illegible] difficile [illegible] Capitulum [illegible] collatores [illegible] successione [illegible] collatori [illegible] Apostolicis [illegible] cap. [illegible] 7. [illegible] 6. [illegible] Capitulum [illegible] Sede vacante [illegible] beneficiorum [illegible] succedat [illegible] Sede vacante [illegible] potestatem [illegible] mandare [illegible] Capitulo [illegible] 6. [illegible] nullus [illegible] in hac difficultate [illegible] Panormitanus [illegible] mandat [illegible] Sede vacante [illegible] tamquam ad Ordinarium Collatorem, nec [illegible] executor apostolicus [illegible] Panormitani [illegible] Capituli ad [illegible] 15. Cardinalis Zabarella [illegible] Nicolaus Garcia de beneficiis 6. p. [illegible] n.° 7. =

n.° 5.

[illegible] collatio beneficiorum [illegible] Sede vacante [illegible] cap. [illegible] 40. de elect. [illegible] 6. [illegible] cap. ult. de off. Vicarii [illegible] 6. [illegible] Gonzalez ad [illegible] Cancelarii [illegible] §. 1. n.° 77. Garcia de beneficiis 5. p. cap. [illegible] n.° 89. = [illegible] Cathedralibus [illegible] Capitulum [illegible] cap. [illegible] 11. de appellat. [illegible] 6. [illegible] de elect. [illegible] Gonzalez [illegible] 45. n.° 36. Garcia [illegible] n.° 234. [illegible]

n.° [illegible] 8. [illegible] Canonicos [illegible] Capitulo [illegible] dignitates [illegible] cap. [illegible] Panormitanus [illegible] 5. de [illegible] cap. [illegible] collatio [illegible] Capitulum [illegible] in Cathedralibus [illegible] 70 [illegible] Gonzalez, et Garcia [illegible] 4. [illegible] 359. et 625. [illegible] 56. n.° 4. [illegible] n.° 24 =

n.° 6.

[illegible] Capitulum Sede vacante [illegible] 24 [illegible] cap. 1. de [illegible] Capitulum Sede vacante [illegible] confirmare [illegible] Capitulo [illegible] Sede vacante beneficiorum [illegible] difficultatem [illegible] Joannes Andreas [illegible] de elect. [illegible] 6. [illegible] Panormitanus [illegible] Capitulum Sede vacante [illegible] confirmatio in beneficiis [illegible] confirmationem elect.

seu existimo praesentationis nullius praejudicium fit futuro praelato, propterea quod haec ejus ex necessitate [illegible] ex libera [illegible] pendent et provenit, ideoque ejus episcopale [illegible], a quo donatio nulla aufertur, si quidem praesentati digni fuerint instituendi [illegible] necessitate cap. post quam [illegible] de elect. in 6. cap. decernimus [illegible] atque etiam [illegible] magis [illegible] cum illa potius ex voluntate et donatione, quam ex necessitate proveniat, atque ideo institutio [illegible] confirmatio Capitulo sede vacante spectat [illegible] collatio. notat itaque [illegible] cap. [illegible] de maioritate et obedientia quam sequitur Barbosa in collect. ad [illegible] capl. de institutionibus [illegible] n.º 4 =

n.º 7.

Secundo quatenus diximus ad Capitulum et ad [illegible] simul spectare collationes expectare solere obstat [illegible] a Capitulo 5.º de concessione praebendae [illegible], ubi [illegible] Collatio facta [illegible] nullius momenti [illegible], et ad eos [illegible] simul ad [illegible] expectare. Verumtamen difficultatem [illegible] respondendo dicendo collationes [illegible] cap. [illegible] ideo nullius [illegible] Capitulum [illegible] contulit in [illegible] illius qui primo rescriptum impetraverat, et praesentavit, in quo executor fuerat datus ad providendum in [illegible] capituli defectu, quo [illegible] collatio [illegible] executori [illegible] capitulo [illegible] tenet etiam [illegible] substituisset, quod [illegible] erat, et ad Capitulum simul cum episcopo [illegible] tradit [illegible] cap. 5. [illegible] executor et Barbosa in collectaneis ad [illegible] n.º 2. = Qualiter solutio intelligenda [illegible] difficultas in cap. proposuit 4. de concess. praebend. [illegible] vacaturis =

n.º 8.

Denique [illegible] in cap. novit 4. de his quae fiunt a praelatis sine consensu capituli, in illis verbis innotuit siquidem auribus nostris quod tu sine consilio fratrum tuorum Abbates, et [illegible] et alias ecclesiasticas personas instituis, et destituis. ex quibus aperte colligi videtur [illegible] Canonicorum Capituli [illegible] Abbendare [illegible] [illegible] simul ad utrumque pertinere [illegible] a procedere in beneficiis [illegible] quo agitur de rebus ad [illegible] expectantibus, in aliis [illegible] Capituli post dispensare [illegible] elegantur tradit [illegible] de patronatu 1 p. [illegible] 2. art. 22. [illegible] ubi hunc [illegible] statu, et exponit [illegible] de his quae fiunt a praelatis [illegible] dicere [illegible] novit procedere in beneficiis [illegible] in quibus aliud observatur [illegible] ad [illegible] Cathedralis ut animadvertit Panormitanus in d. cap. novit n.º 7. = Nec [illegible] sede vacante aliquid innovetur [illegible] ubi absolute [illegible] aliquando [illegible] asseritur mortuo episcopo vel [illegible] sede [illegible] vacante [illegible] Capitulum beneficiorum collationem facere [illegible] procedere in praebenda [illegible] Cathedralis simul ad Capitulum et episcopum pertinente, quod quidem [illegible] attento [illegible] in cap. illo [illegible] tradunt post Panormitanum in d. cap. 2. ne sede vacante n.º 4. Gonzalez ad reg. [illegible] Cancellariae [illegible] 4. [illegible] Collect. [illegible] Barbosa in collect. ad [illegible] n.º 3. et 5. =

n.º 9.

Ut autem plene, ac plane cognoscamus quid possit Capitulum sede vacante exercere [illegible] omnia quae [illegible] aut ex ordinis, aut iurisdictionis. Ordinis dicuntur illa quae expectant ad collationem ordinum tam minorum quam maiorum quos quidem [illegible] consecratus fuerit [illegible] conferre, iurisdictionis illa [illegible] dicuntur exercendam expectant, velut excommunicare, de causis [illegible] cognoscere et alia similia, [illegible] illius quae ordinis [illegible] sede vacante [illegible] cap. [illegible] de elect. et electi potestate cap. quamvis [illegible] Cum [illegible] potest exercere [illegible] electi [illegible] consecrationi [illegible] in Capitulo [illegible] nec [illegible] in illis quod [illegible] habet [illegible] Capitulum [illegible] sede [illegible] episcopi [illegible] vacante [illegible] exercere, ideo [illegible] quaque [illegible] animadvertit [illegible] in cap. transmissam [illegible] de elect. [illegible] quidam [illegible] canonica [illegible] adhuc [illegible] consecrarentur, ut [illegible] ante et post [illegible] tradit [illegible] 21. [illegible] cap. [illegible] 2. [illegible] consecrationis = [illegible] sed [illegible]

n.º 10.

Verumtamen [illegible] videtur [illegible] in cap. cum nullus [illegible] de tempore ordinandorum in 6. ubi statuitur Capitulum sede vacante posse dare litteras dimissorias ad ordines suscipiendos, igitur sede vacante succedit in [illegible] ordinis, [illegible] consecrationis [illegible]. Cui difficultati ut satisfaciamus [illegible] magnum discrimen esse inter potestatem exercendi, et inter potestatem mandandi [illegible] ordines [illegible] Capitulum sede vacante [illegible] ordines conferre [illegible] [illegible] reservatis [illegible] consecrato [illegible] vel aliorum [illegible] potest mandare ordines conferre, quia [illegible] conferre mandat [illegible] iurisdictionis [illegible] exercet, quo [illegible] [illegible] in d. cap. cum nullus, ex quo [illegible] agente, [illegible] in spiritualibus Vicarius generalis, vel sede vacante Capitulum, seu [illegible] ad quem hanc [illegible] administrationem [illegible] spiritualibus noscitur pertinere [illegible] licentiam ordinandi, [illegible] fundant [illegible] [illegible] episcopus [illegible] litteras dimissorias [illegible] observantur, [illegible] cap. [illegible] Capitulum [illegible] vel alium promoveri [illegible] [illegible] aut obtinenti [illegible] consecratis, et [illegible] Non [illegible]

Capitulum

ideo quaequidem [illegible] fiat [illegible] ut expositionis [illegible] eiusdem [illegible]

[illegible] clericos beneficiatos [illegible] [illegible] consecratus

a de elect. [illegible]

Capitulum [illegible] Sede Vacante intra annum a die Vacationis [illegible] aut [illegible] dimissorias, seu reuerendas [illegible] aliquem [illegible] tamen ex [illegible] dispositione, [illegible] privilegii, aut [illegible] alicui, qui [illegible] [illegible] ecclesiasticum receperit, sine requisitione [illegible] concedere, ut explicat Barbosa [illegible] ad [illegible] ad dictum caput 10. n. 17. idem Barbosa [illegible] allegat 7. n. 20, et quamplurimos alios [illegible] authores quos ipse [illegible] ne [illegible] videamur omittimus. =

n.° 11.

In aliquibus rebus, quae sunt iurisdictionis tam spiritualis, quam temporalis Capitulum Sede Vacante succedit, cap. [illegible] 11. cap. Cum olim 14 de maioritate, et obedientia, cap. ad abolendam de [illegible] Hereticis, cap. de nullo, [illegible] de [illegible] negligentia Praelatorum; ratio est quia ad tales actus exercendos [illegible] requiritur consecratio aliqua, [illegible] [illegible] quae cum in Capitulo inveniatur, et maxime gubernationi reipublicae [illegible] expediat ut [illegible] actus [illegible] exerceantur, ideo Capitulum eos potest exercere. exceptis illis quae de iure illi [illegible] prohibiti [illegible]. qualis est actus conferendi beneficia, quorum collatio [illegible] reservata est [illegible] traditum docent Panormitanus et Felinus in dicto cap. [illegible] de maioritate, et obedientia n.° 3. [illegible] in praxi beneficial. [illegible] de devolutionibus n.° 58. [illegible] in paraphrasi [illegible] cap. 7. Ioannes Gutierres [illegible] Canonicarum [illegible] cap. 11. n.° 10. [illegible] in cap. alma mater 1. p. § 11. n.° 1. de [illegible] excommunicationis; =

n.° 12.

Ex quo sequitur Capitulum Sede Vacante posse absoluere [illegible] a iure, vel ab homine prolata absoluere [illegible] accessit. [illegible] Si [illegible] in cap. [illegible] unico de maioritate, et obedientia, [illegible] in cap. Si [illegible] 11. q. 3. quod ita est intelligendum in illis [illegible] succeserit [illegible] quae Capitulum Sede Vacante. Similiter [illegible] de causis matrimonialibus, nec non [illegible] tam civilibus quam criminalibus tractare cap. 1.° de officio iudicis ordinarii, cap. [illegible] 43. de testibus et atestationibus, cap. [illegible] 7. de testibus Cogendis, cap. [illegible] 7. de [illegible] [illegible] excludit inferiores Praelatos, in cap. accedentibus 12. de excessibus Praelatorum. [illegible] plura [illegible] exercere [illegible] [illegible] prosequi qualiter [illegible] [illegible] [illegible] [illegible] Sanches [illegible] de matrimonio [illegible] 28. n.° 5. Ioannes Gutierres [illegible] cap. 66. n.° 12. [illegible] tractatu de matrimonio cap. [illegible] [illegible] instit. moralium p. 2. lib. 3. cap. 38. q. 2. [illegible] Nicolaus Garcia de beneficiis [illegible] cap. 7. n.° 30. Flaminius de resignatione beneficiorum lib. 5. q. 28. n.° 19. [illegible] praxi episcopali, [illegible] Capitulum [illegible]. [illegible] Augustinus Barbosa in collectaneis ad [illegible] in cap. illa [illegible] ne Sede Vacante aliquid innovetur, ubi ex n.° 4 usque ad 257. [illegible] proponit [illegible] [illegible] quos [illegible] Capitulum Sede Vacante exercere. =

n.° 13.

His ita constitutis, ut [illegible], quae [illegible] explicata, et [illegible] [illegible] [illegible] illa [illegible] interpretanda venit [illegible] nullatenus [illegible] si datam litterarum diligentius attendimus, quae denotare videntur in [illegible] tempus datae, seu [illegible] [illegible] Ecclesiastico, [illegible] Seculari darentur, Sed hoc [illegible] [illegible] adiuncta [illegible] reducitur. Primum [illegible] in rescriptis inspicimus [illegible] tinent ad substantiam et validitatem [illegible] ad habilitatem seu incapacitatem [illegible] simul [illegible] [illegible] accessum velut [illegible] rescripti, tunc [illegible] dat, [illegible] ipsius rescripti attendimus, probat [illegible] in cap. [illegible] 19. [illegible] cap. ult. [illegible] de rescriptis [illegible] [illegible] cap. [illegible] et dignitatibus [illegible] de decimis [illegible] clem. [illegible] de rescriptis, [illegible] [illegible] Stipulat [illegible] Macedonianum [illegible] procuratoris [illegible] [illegible] aliisque [illegible] [illegible] in cap. [illegible] [illegible] antiquiores [illegible] Castillo lib. 7. controversiarum cap. 41. n.° 62. Flaminius lib. 1.° de resignatione beneficiorum q. 6. n.° 27. Madoz [illegible] Cancellaria q. 28. n.° 45. =

n.° 14.

Secundo [illegible] in rescriptis inspicimus quae [illegible] ad tempus, vel [illegible] ad scientiam, vel ignorantiam, ad obedientiam, [illegible] tunc [illegible] tempus praesentationis, et receptionis rescripti, aut aliud simile, ut [illegible] [illegible] [illegible] [illegible] honorem [illegible] de appellationibus, [illegible] Felinus, et Panormitanus [illegible] Molina de Hispanorum primogenitis lib. 2. cap. 7. n.° 58. [illegible] in rescripto designato, cap. [illegible] 12. [illegible] de appellat. vel [illegible] tempore [illegible] in cap. [illegible] 23. [illegible] de rescriptis, [illegible] litterarum usque ad receptionem posteriorum cap. [illegible] [illegible] [illegible] [illegible] in cap. dilectus 27 de praebendis et dignitatibus [illegible] [illegible] Felinus in cap. [illegible] 3. [illegible] de rescriptis n.° 8. Cobb. pract. 93. cap. 9. n.° 9 Lancelotus de [illegible] cap. 10. Ex quo [illegible] ratio [illegible] tempus datae [illegible] rescripti [illegible] ad [illegible] [illegible] tempus [illegible] [illegible] verbis [illegible] [illegible] [illegible] in [illegible] de forma mandati [illegible] 171. [illegible] probari. =

n.° 15.

Similiter [illegible] rescripti tempus [illegible] datae [illegible] inspiciendum [illegible] Secundum illud [illegible] aut [illegible] precum. = Nec [illegible] [illegible] ad [illegible] rescripti [illegible] animus [illegible]

e[illegible]

et in hac re accipiendi si tre in cap. statutis 49. hoc m° tit°. de rescriptis, cap. quia c. [illegible] cap. 2 de elect. in 6. [illegible] docent Navarrus in cap. si qd. excep. n°. 6 hoc m° tit. Flaminius tit. de resignat. benef. l. 9. q. 2. n° 11. [illegible] tradicarunt q. 3. [illegible] n° 19. = quod etiam expectat [illegible] in cap. si a sede tempore 9. hoc m° tit. in 6. ubi ideo in rescripto de provisi alter [illegible] data [illegible] rehabilit. impetrantis, quod tempore oportet intervenire lo tempore quo datur, nec satis est si supervenerit, [illegible] per excep. Gobbenet [illegible] 5. [illegible] in 6. [illegible] cap. statutis in princ. hoc m° tit. in 6. [illegible] tradit [illegible] alios referens [illegible] ad [illegible] in cap. [illegible] de [illegible] et dignitatibus [illegible]

n° 16. Neque hanc doctrinam acriter obstare videtur [illegible] in cap. [illegible] cap. [illegible] 29. de [illegible] et dignitatibus in 6. ex quibus [illegible] videtur colligi sufficere [illegible] impetrans post datam [illegible] ad [illegible] legitima, ita ut tempore quo vacat beneficium habilis inveniatur, [illegible] tempus datae esse inspiciendum [illegible] quibus authoritatibus faciant satis [illegible] varii [illegible] in cap. [illegible] Dominicus n° 12. Francus n° 8. Barbosa n° 5. [illegible] in cap. [illegible] pro clericis [illegible] quod agitur de defectu aetatis, et defectu sacrorum ordinum [illegible] notanda [illegible] quod sacri ordines [illegible] in beneficiis curatis [illegible] tempore rescripti [illegible] sacri vero ordines [illegible] sufficiat quod [illegible] annum beneficiarius promoveri possit [illegible] licet canon 24 de elect. in 6. [illegible] aut sint specialiter inducat, [illegible] agatur de commendis parochialibus in quibus specialiter [illegible] actualiter [illegible] existat tempore datae, cap. nemo 15. de elect. in 6. tradunt Flaminius tit. 4. de resignat. benef. [illegible] 9. n° 37. Nicolaus Garcia 4. p. de benef. c. 7. cap. 14. n° 24. [illegible] merito in d. cap. si pro clericis [illegible] licet de [illegible] sacrorum ordinum mentio fiat. =

n° 17. Nec magis obstat [illegible] in cap. [illegible] 29. quia [illegible] solutioni [illegible] quas dederunt [illegible] et [illegible] Mandosius [illegible] Cancellariae [illegible] 22. n° 45. [illegible] ad hanc [illegible] impertinens, cum in illis [illegible] gratia [illegible] fuerit facta [illegible] tempore rescripti idoneo [illegible] cum [illegible] fuerit [illegible] personam idoneam [illegible] cui providere potuit nulla [illegible] gratia [illegible] [illegible] tempore rescripti attendi debeat, [illegible] sufficit [illegible] idoneus [illegible] collationis tempore [illegible] [illegible] cui providendi facultas data fuerat, docet ita Dominicus Francus in cap. [illegible] n° 8. Neque [illegible] urget [illegible] in d. cap. [illegible] 29, quia [illegible] probat [illegible] deducitur [illegible] inspiciendam tempore datae rescripti, [illegible] tempore [illegible] immediata [illegible] ad tempus collationis [illegible] tempus datae rescripti quo tempore [illegible] sacerdotalis [illegible] cui providere mandatur de [illegible] proxime vacatura, [illegible] totalem [illegible] debebit, ita ut [illegible] qui [illegible] adversativa [illegible] qualitas [illegible] referret [illegible] [illegible] Archidiaconus, et Dominicus Francus in d. cap. si a sede tempore hoc m° tit. in 6. n° 3 et 12 [illegible] Rebuffus [illegible] [illegible] de collationibus [illegible] nec [illegible] ad proxime immediata, [illegible] ut [illegible] in l. [illegible] 27. [illegible] cum pluribus aliis [illegible] Rebuffus [illegible] n° 5. [illegible]

n° 18. Ex quibus omnibus expedienda venit illa [illegible] quaestio, an [illegible] impetrans rescriptum ad ecclesiasticum beneficium debeat tempore [illegible] tonsuratus esse, an [illegible] sufficiat [illegible] tempore praesentationis. Qua in re verius [illegible] tempore datae debere esse tonsuratum, et suadere videtur [illegible] in cap. ex litteris 6. de transactionibus [illegible] tonsuratus [illegible] [illegible] in cap. cum adeo [illegible] 3. et 4. hoc m° tit. Dominicus Francus in cap. si a sede tempore n° 8. [illegible] Fabiano [illegible] 12. n° 15. Licet [illegible] in cap. cum adeo n° 2, [illegible] plures quos [illegible] Gomesius de [illegible] expectativis n° 29 [illegible] in [illegible] Romanam [illegible] [illegible] clericali; = Nec [illegible] probat [illegible] 3. de [illegible] et dignitatibus in 6. ex quo probari videtur [illegible] inspici datam, [illegible] necessitate impetrantis, [illegible] loqui de [illegible] personis, nec [illegible] collationis, ideo [illegible] certus [illegible] clerico [illegible] de benef. [illegible] merita [illegible] referantur ad personas habilitatis, [illegible] tempus mandati inspiciendum, [illegible] Gratus 27. hoc m° tit. [illegible] tempus electionis [illegible] 22 de elect. [illegible] referantur ad [illegible] merita [illegible] [illegible] referri ad tempus collationis [illegible] Dominicus [illegible] in cap. [illegible]

n° 19. Expectat [illegible] hanc [illegible] in c. [illegible] ult. hoc m° tit. [illegible] in rescriptis gratiosis ad beneficia vacatura [illegible] tempus datae, [illegible] vacabit, [illegible] rescripti, [illegible] agitur de [illegible] tempus [illegible] n° 43. [illegible] data attendatur, [illegible] beneficii post datam [illegible] [illegible] in cap. ult. hoc m° tit. [illegible] [illegible] de arbitris [illegible] [illegible] universitatis [illegible] [illegible] de gradibus, [illegible] 27. [illegible] [illegible] legatorum [illegible] 69, [illegible] 72. [illegible] in [illegible] similibus aliis juribus [illegible]

Inspiciendae tacitae [illegible]

Card. Lauretus in resolut.

Gonzalez ad Reg. 8. Cancellar. gloss. 9. § 5. n. 3. Azor tomo 2° instit. moral. lib. 3. cap. 34. q. 3. Cui doctrinae non parum solet [illegible] quia in cap. 22 de privilegiis, ubi inveniuntur decimas et futuras habent [illegible] Petrus Barbosa in [illegible] n. 27. Mandosius in reg. 3 Cancellar. q. 7. Augustinus Barbosa in collect. ad [illegible] clem. ult. n. 6. Cum similibus. =

n. 20

Quaeres, quibus tandem illa verba ibi, sicut Archidiaconus et Canonicus eiusdem eccl., in quibus intelligendus magis laborant interpretes, [illegible] in quo tempore capiunt prohibitio incompatibilitatis beneficiorum, quod hodie [illegible] valeret. Nos [illegible] scimus [illegible] tractari in cap. de multa 28 de praebendis et dignitatibus [illegible] Canonica cap. 58. Petrus [illegible] de beneficiis cap. 25. n. 2. Quesada incompatibilit. beneficiorum 2 p. cap. ult. Nicolaus Garcia de beneficiis p. 11. cap. 5. n. 23. Barbosa lib. 3. de ecclesiastico [illegible] cap. 13. n. 172. cum sequentibus. Quaranta lib. 8. de sacris eccl. ministeriis, Novissime Salgado [illegible] n. 234. n. 5. et alii plures quos refert [illegible] ad Decretales Collect. 150: illa [illegible] praebendas aut ea [illegible] Canonicatus, aut [illegible] dignitates, vel duos Canonicatus, ex quibus [illegible] nullus licet obtinere. Verum [illegible] hoc discrimen adest, quod [illegible] cap. litteras de [illegible] cap. [illegible] lib. 5. [illegible] dispensationis Saltem [illegible] possidere [illegible] interpretanda sunt praedicta [illegible], quasi sensus sit in illa [illegible] vel ex dispensatione [illegible] si illi Archidiaconus et Canonicus [illegible], ita docent Panormitanus [illegible] n. 6. [illegible] n. 5. Barbosa [illegible] allegat. 62 n. 27. et alii plures, quos refert, et sequitur Garcia de beneficiis p. 11. cap. 5. n. 280. =

n. 21

Fine [illegible] solet [illegible] qui duo beneficia in eadem ecclesia obtinet duplicem vocem habeat, et duplicatas percipiat distributiones, in haere [illegible] defendit Panormitanus in cap. cum dilecti 22. de rescriptis, Lotterius [illegible] lib. 3. cap. 1. Quesada de incompatibilit. beneficiorum 1 p. cap. 22. n. [illegible]. Tuscus litt. D. [illegible] 512. n. 3. et [illegible] sine [illegible] persona duplici munere fungi [illegible] 3. [illegible] de [illegible] 3. [illegible] ult. 7. de [illegible] facit [illegible] Marcus [illegible] n. 73. [illegible] Tuscus litt. C. [illegible] 317 = [illegible] placet [illegible] obtinens duo beneficia [illegible] nec duplices voces nec distributiones habere; qui [illegible] cap. cum in [illegible] residentibus lib. 6. [illegible] divinis interesse, [illegible] Archidiaconus simul et Canonicus, quamquam quantum Archidiaconus, aut Canonicus, [illegible] unitas [illegible] persona, qui [illegible] duplicem vocem = [illegible] Thomas quodlibeto [illegible] 17. Suarez tomo [illegible] de [illegible] lib. 4 de horis Canonicis cap. [illegible] n. 7. Azor tom. 2 instit. moral. lib. 10 cap. 4. q. 10 cum similibus. =

n. 22

Denique restat intelligere, [illegible] illa verba ibi nolo [illegible] Cathedralibus [illegible] Canonici, Civilis, et [illegible] ad officium publicum, [illegible] ad beneficia Canonicatus, aut ad [illegible] dignitates [illegible] saecularem [illegible] admitti [illegible] = Hic res magna [illegible] expostulabat, Nos [illegible] ut [illegible] instruct. [illegible] sacros ordines, et ad beneficia ecclesiastica [illegible] admitti [illegible], quemadmodum illi admittuntur ad officia publica saecularia et ad honores, [illegible] intelligendus in [illegible] 6. lib. 24. [illegible] quae sub [illegible] sive expectantia [illegible] [illegible] fuerint necessaria [illegible] Rodriguez [illegible] manuali cap. 27. n. 205. Simancas de Catholicis institutionibus cap. 47. n. 81. Quesada de incompatibilit. beneficiorum 2 p. cap. 25 n. 24. Salcedo in praxi Canonica cap. 22. Lara [illegible] de Capellaniis [illegible] cap. 4. Thomas Sanchez [illegible] Decalogi cap. 28. n. 11. Barbosa [illegible] n. 2. [illegible] quos [illegible] Denique ac [illegible] Ioannes Gutierrez [illegible] 26 [illegible] Cum similibus [illegible] ad laudem [illegible] Patris et Filii et Spiritus Sancti, necnon [illegible] Virginis Mariae absque labe [illegible] Angelorum [illegible] omnium [illegible] =

= Cum similibus =

Azor 2° instit. moral. lib. 10. c. 10 q. [illegible] de horis canonicis. =

+ [illegible] 11. de appellat. lib. 6.

ut [illegible] Moneta de distributionibus 2 p. q. 4. n. 8.

+ [illegible]

Solemnis et valde utilis recitatio ad textum in cap. Super litteris 20.

mihi et cap. ex parte 2. cap. ex litteris 3. cap. ad aures 8. cap. Sedes 15. cap. Cum nostro 17. cap. [illegible] 19. cap. Cum dilecta 22. cap. Si [illegible] 26. cap. postulasti 27. cap. ad audientiam 31. cap. Si unica 32. cap. ex intimatione 37. cap. [illegible] proponente 42. hoc eodem

= titulo de rescriptis =

n.° 1.° — [illegible] rescriptis impetratis

In his omnibus iuribus una eademque [illegible] agitatur materia, quantumvis diversa, et difficilia comprehendat, quam tamen ut illustremus, [illegible], supponimus cum [illegible] 1.° Rescripta [illegible] impetrari 2.° [illegible] obreptio, id est cum veritas in precibus reticetur, [illegible] in cap. ex litteris 3. cap. postulasti 27. cap. ad audientiam 31. cap. [illegible] hoc eodem tit. aut [illegible] aliud celatur, et si expressum foret poterat animum Principis [illegible] cap. ad aures 8. hoc eodem tit. cap. Cum olim 12. cap. cum inter 20. de re iudicata. = 2.° quod est subreptio, quae [illegible] cum ex falsis et mendacibus precibus obtinentur rescripta [illegible] et [illegible] cap. ex [illegible] hoc eodem tit. cap. [illegible] 6. cap. ex litteris 6. de [illegible] [illegible] Petrus Greg. [illegible] de rescriptis cap. 49. et 50. [illegible] obreptio, et subreptio [illegible] in posterioribus annotationibus ad Pandectas in l. Si quis 29. ff. ad l. Corneliam de falsis. = [illegible] quando [illegible] dolus, neque fraus [illegible], et ignorantiam [illegible] falsis [illegible] rescripta impetrata [illegible] in cap. si litteris [illegible] hoc eodem tit. cap. [illegible] 4. [illegible] [illegible] [illegible] plures [illegible] sed ut melius testatur Seneca cap. [illegible] [illegible] [illegible] [illegible] [illegible] explicabuntur. =

Sit 1.ª conclusio. in rescriptis Apostolicis semper subintelligitur

n.° 2 — explanatur an rebus [illegible] … de filiis presb. [illegible]

Clausula si preces veritate nitantur, et si in illis veritas reticeatur nullius momenti [illegible], nec [illegible] impetrantibus [illegible]. [illegible] ultra iura superius adducta, et ultra [illegible] in cap. 2. hoc eodem tit. ex quo [illegible] ex [illegible] in cap. 1. cap. [illegible] de aetate, et qualitate [illegible] cap. penult. de [illegible] Vicarii, cap. [illegible] 5. de [illegible] clericorum, et mulierum cap. [illegible] 16 [illegible] 25. q. 2. de l. [illegible] in l. [illegible] de [illegible] l. Si quis 29. ff. ad l. Corneliam de falsis, l. ult. §. 1. [illegible] utilitas publicam [illegible] in l. 57. tit. 3. [illegible] [illegible] Anastasius Germonius [illegible] animadversionum cap. 15. Thomas Sanchez lib. 8. de matrimonio [illegible] Bartolus eodem [illegible] tit. 8. cap. 16. et 17. Suarez lib. 6. de legibus cap. 22. et 23. Joannes Gutierrez lib. [illegible] canonicarum quaestionum cap. 5. Petrus Greg. [illegible] de rescriptis cap. 49. Menochius de arbitrariis casu 201 [illegible] hoc [illegible] Barbosa in collect. ad [illegible] in cap. [illegible] 2. hoc eodem tit. de rescriptis n.° 8. =

n.° 3. — [illegible]

[illegible] licet hic tot auctoritatibus confirmata verissima sit, [illegible] [illegible] dubitandi [illegible] in quolibet [illegible] rescriptis [illegible] subintelligi clausulam si preces veritate [illegible] [illegible] in l. finali C. de diversis rescriptis [illegible] cap. [illegible] 16 [illegible] universa 25. q. 2. ex quibus [illegible] aperte colligitur [illegible] clausula si preces veritate nitantur [illegible] [illegible] [illegible] [illegible] [illegible] Gratiani [illegible] universa [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] si preces veritate nitantur [illegible] [illegible] [illegible] si preces veritate nitantur [illegible] [illegible] [illegible] =

n.° 4.

[illegible] [illegible] [illegible] in rescriptis [illegible] [illegible] ex [illegible] obstare videtur difficile [illegible] maxime in Imperatoris decreto relato in l. 2. C. [illegible] utilitas publica ex [illegible] aperte deprehenditur rescripta in quibus veritas reticetur [illegible] [illegible] [illegible] [illegible] [illegible] decreto Theodosii et Valentiniani [illegible] [illegible] [illegible] utilitas publica, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] veritati [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] invalida, et nulla. =

n.° 5.°

[illegible] in quibus veritas reticetur nullis [illegible] difficile [illegible] [illegible] in cap. si [illegible] 9. hoc eodem tit. de rescriptis [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

Cum demonstraret ille [illegible] beneficii [illegible] sua natura, quod adipiscens sufficientem [illegible] haberet, per quos licite potuerit obtinere [illegible] qui rescriptum impetrat [illegible] dolus [illegible] veritatis commodum [illegible] ex eo sequitur quod illud [illegible] beneficium [illegible] [illegible] in nostra assertione [illegible] —

n. 6

Quibus difficultatibus minime refragantibus, decernere [illegible] nostrae assertionis [illegible] ut demonstrare [illegible], illud [illegible] animadvertimus, adeo [illegible] rescriptis [illegible] veritatis requiri, ut semper clausula illa si preces veritate nitantur subintellecta [illegible] [illegible], ut [illegible] cap. 2. hoc tit. [illegible] firmat [illegible], et sic veritas [illegible] [illegible] faciendae, [illegible] facti [illegible] debet proponi, ut [illegible] vera vel [illegible] facile Princeps ad rescripti concessionem seu denegationem moveri possit [illegible] cap. 2. [illegible] finisse de dolo et contumacia, cap. venerabilibus [illegible] ad [illegible] [illegible] firmat [illegible], vel [illegible] cap. super eo [illegible] de cohabitatione clericorum et mulierum, [illegible] finali [illegible] de [illegible] [illegible] doctrina [illegible] exemplo actionis redhibitoriae [illegible] cum venditor vitia in generaliter, sed specialiter, et clare debet exprimere [illegible] l. [illegible] 43. [illegible] de [illegible] emptione [illegible] venditor [illegible] de aedilitio edicto, [illegible] [illegible] in annotationibus ad [illegible] 49. in [illegible] 66. [illegible] 5. n. 11. et 12. — Ex quo sequitur rescriptum [illegible] dolo [illegible] veritatis obtentum nullius esse momenti, [illegible] coram Principe est allegata [illegible], [illegible] [illegible] cap. [illegible] 20 hoc tit. de rescriptis in [illegible] penitus, [illegible] cap. [illegible] hoc tit. [illegible] et 15. [illegible] utilitatis publicae, cuius [illegible] excludat ut colligitur ex cap. [illegible] hoc tit. ubi ille qui exiguum beneficium habebat dolose coram Pontifice allegavit [illegible] se nullum habere, quare [illegible] rescriptum illud [illegible] quamvis si exprimeret se exiguum habere ex causa [illegible] et in finali [illegible] rescriptum [illegible] arg. [illegible] cap. postulasti [illegible] hoc tit. cap. [illegible] de [illegible] et dignitatibus, [illegible] notant [illegible] 319. [illegible] in [illegible] penitus cap. [illegible] —

n. 7

Ex quo descendit [illegible], [illegible] asserimus rescripta [illegible] impetrata nullius momenti esse, [illegible] impetrantes nullum [illegible] [illegible], quia rescripta accipiunt [illegible] [illegible] Principis rescribentis, [illegible] ex causa [illegible] supplicationis [illegible] cap. [illegible] 15. [illegible] cap. [illegible] litteris [illegible] hoc tit. [illegible] vera [illegible] fuerit [illegible] rescripti [illegible] [illegible] facti [illegible] Principi ignorata [illegible] [illegible] et propterea [illegible] [illegible] falsa [illegible] vera [illegible] rescriptis [illegible]. [illegible] rescripta [illegible] [illegible] nemo debeat [illegible] dolo [illegible] l. 1. [illegible] de dolo. [illegible] [illegible] de [illegible], [illegible] ille qui veritatem celat, quemadmodum qui falsum dicit falsi crimen committit [illegible] falsi; l. 2. [illegible] ad l. Corneliam de falsis. Ob quam [illegible] rescripta invalida, et inutilia esse. —

n. 8

[illegible] obstant difficultates [illegible]. Nam [illegible] de [illegible] l. 1. de diversis rescriptis [illegible] ex cap. [illegible] 625. [illegible] quibus probat [illegible] clausulas si preces veritate nitantur [illegible] in rescriptis, [illegible] [illegible], quos [illegible] [illegible] ad [illegible] n. 4. Verissime [illegible] discrimen [illegible] inter [illegible] civiles et canonicas [illegible] clausula [illegible] semper [illegible] in rescriptis, ut [illegible] in [illegible] finali [illegible] de diversis rescriptis [illegible] de iure canonico semper subintellecta [illegible] ut [illegible] cap. 2. hoc tit. [illegible] [illegible] finali [illegible] Decius, et Felinus [illegible] 5. et 6. — Cuius doctrinae [illegible] canonicis semper [illegible] veritatem [illegible], [illegible] [illegible] rescripta aut [illegible] semper [illegible] veritas, [illegible] respicit [illegible], ideoque ut rescripta [illegible] veritate nitantur [illegible] intelligantur, debet exprimi. — Nec [illegible] distinctio [illegible] cap. [illegible] finali [illegible] Pontificum [illegible] cap. [illegible] universa 25. q. 2. [illegible] transcriptis [illegible] [illegible] habere, [illegible] l. [illegible] Panormitanus, Decius et Felinus [illegible] —

n. 9

[illegible] obstat [illegible] difficultas deducta ex [illegible] l. 2. [illegible] [illegible] ex qua probabamus rescriptum [illegible] [illegible] videri [illegible] [illegible] Bartolus [illegible] et aliis ex antiquioribus [illegible] l. 2. Panormitanus, Cardinalis [illegible] cap. super litteris 20 hoc tit. [illegible] animadversionum cap. 15. ut [illegible] [illegible] [illegible] dicere [illegible] veritatis [illegible] in rescripti impetratione [illegible] [illegible] ignorantis, [illegible] rescriptis [illegible] [illegible] [illegible]

nō cap. super litteris, Hocsem^do^ [illegible] villa qui [illegible] simplicitate, ignorantia, et ex [illegible] quam ingenium [illegible] adducem[illegible]

Nec quia faciunt [illegible] dicta verba [illegible] ind. [illegible] 2. [illegible] reticentia [illegible] fraude, quae denotare videntur rescriptum [illegible] frau[illegible] et dolo impetratum fuisse; quia Respondendum [illegible] fraus et dolus [illegible] valde differunt [illegible] genera[illegible] [illegible] dolus, [illegible] fraudandi [illegible] effectus, [illegible] fraude [illegible] committere [illegible] siquidem in fraude [illegible] dolus [illegible] semper a dolo, quo [illegible] effectu [illegible] pot[est] fraudari absque animo vel dolo fraudis, [illegible] pot[est] [illegible] absque [illegible] animo fraudandi. [illegible] Ideoque dicta verba non debent intelligi [illegible] reptus [illegible] dolo [illegible] impetratus, sed tantum simpliciter [illegible]

[illegible]

Deinde non obstat posterior difficultas deducta ex [illegible] Hocsem^do^ [illegible] Cuius [illegible] interpretandi et intelligendi [illegible] Ad [illegible] quod ubi falsitas [illegible] dolus expressa vitiet [illegible] [illegible] an [illegible] propter [illegible] falsitas fuit [illegible], quamvis [illegible] rescriptum [illegible] partibus et separatis [illegible] falsitas [illegible] rescriptum [illegible] in [illegible] utile [illegible] expressa [illegible] Hocsem^do^ [illegible] dignitatibus [illegible] Thomas Sanchez [illegible] penultum de transactionibus [illegible] Philippus [illegible] Hocsem^do^ [illegible] 7. et 8. [illegible] dispensatio in gradu cons[illegible] [illegible] pot[est] probari hoc exemplo veluti si quis in uno rescripto [illegible] dispensationem [illegible] quinitatis ad contrahendum matrimonium falsa causa finali proposita, et simul in uno [illegible] ad [illegible] faciendum [illegible] vera narrata facta, surreptio in impedimento consanguinitatis non vitiat alteram dispensationem, cum habeat [illegible] ad diversos fines tendat; Ideoque [illegible] quantum [illegible] ad obtinendum bene[illegible] Curatum non vitiat alteram ad [illegible] beneficium simplex, cum utraque [illegible] diversa; Sive dispensatio [illegible] ad [illegible] finem tendat falsa causa finalis proposita in una [illegible] fraus, et dolus vitiat alteram, veluti si quis [illegible] [illegible] falsitatem, [illegible] impedimento consanguinitatis ad contrahendum matrimonium falsa causa finalis [illegible] vitiat [illegible] [illegible] finem tradit eleganter [illegible] expectantia adducens Thomas Sanchez [illegible] de mat[illegible] [illegible]

[illegible]

Ex his omnibus [illegible] intelligenda et interpretanda [illegible] nulla [illegible] Decreta [illegible] 129 [illegible] perturbare videntur, et [illegible] interpretandi [illegible] in cap. [illegible] motu proprio [illegible] 6. [illegible] si Romanus 4. [illegible] ex quibus [illegible] colligitur rescripta tacita veritate impetrata [illegible] validare, quamvis [illegible] veritas [illegible] foret [illegible] rescripta [illegible] vera quamvis [illegible] intellectus [illegible] varia [illegible] antiquioribus, [illegible] putamus [illegible] decisis [illegible] generaliter procedere, [illegible] rescriptis Principes, aut [illegible] clausulam motu proprio; Cum [illegible] est [illegible] auferat vitium surreptionis [illegible] tradunt Flaminius [illegible] de resignat. benef. [illegible] 74. [illegible] collat. [illegible] Mengius [illegible] praesumptionibus [illegible] 13. nº 11. = Et hoc adeo verum est ut [illegible] procedat [illegible] quo casu [illegible] moveret ad gratiam [illegible], credatur [illegible] motu proprio [illegible] beneficium conferre, ut post alios [illegible] Thomas Sanchez de [illegible] 47. [illegible] declarat [illegible] quamvis [illegible] pio, [illegible] Clem. [illegible] si Romanus tantum videantur agere de [illegible] debet intelligi [illegible] Certe iudicamus eum procedere [illegible] reticentia veritatis, ac in falsitatis expressione [illegible] Molina [illegible] primogenitis cap. [illegible] nº 15. Nicolaus Garcia de benef. 3 p. cap. 2º nº 233. [illegible] Lancelotus [illegible] 32. [illegible] Antonius Gabriel [illegible] nº 2. [illegible] 28 [illegible] in [illegible] sub forma mandati [illegible] [illegible] Rebuffus [illegible] 44. [illegible] novae recopilationis [illegible] quod tamquam [illegible] Augustino Barbosa [illegible] quas ad [illegible] remittimus [illegible]

[illegible]

2. Infertur interpretatio ad [illegible] Innocentii 3. Decretal. [illegible] 13. de [illegible], in qua nullam mentionem habebat de [illegible] privilegiis, quibus [illegible] Clerici [illegible] Sedem Apostolicam [illegible] nullo mediante expectare declararent, [illegible] ex quibus videbatur [illegible] ad hoc ut rescriptum tacita veritate impetratum [illegible] interveniente [illegible] impetratoris, quasi [illegible] privilegiorum rescripto [illegible] vel saltem [illegible] rescripti [illegible] Hocsem^do^ [illegible] abducunt nos [illegible] rescripto [illegible] [illegible] difficultatem [illegible] interpretes [illegible] adducunt [illegible] Hostiensis [illegible] rescripti [illegible] solutio [illegible] Abbas Panormitanus ibidem nº 5. [illegible] nº 2. et 11. Cardinalis [illegible] Hocsem^do^ [illegible] rescripti [illegible] nulla [illegible] privilegia [illegible] ut [illegible] exceptio peremptoria, [illegible] tangentia, [illegible] rescript[illegible] [illegible] L. 2. C. [illegible] = [illegible] sententia [illegible] rescripti [illegible] Quaestio [illegible] hic et aliis [illegible] solutionibus omissis magis placet dicere [illegible] proponere [illegible] [illegible] allegationem [illegible] crederet [illegible]

Ad audiencia[m] de litteris et aliis rescriptis

Sed quia scientia illa interveniente [illegible] aperte rescripti [illegible] fuisse validi. Apparet [illegible] tinere ad [illegible] ex [illegible] nulla [illegible] habeatur nec [illegible] recte [illegible] deducatur, ut [illegible] antecessoribus [illegible] eleganter edocuere. =
n.o 48.

Denique explicandus venit [illegible] valde difficilis [illegible] quae [illegible] de Consa[n]guinitate et affinitate [illegible] Consanguinei [illegible] gradu existentes falsam [illegible] [illegible] et licet hic prolis expressio rescripti dedisset [illegible], nihilominus validus [illegible] rescriptum [illegible] igitur [illegible] recte [illegible] Thomas Sanchez lib. 2. de matrim. [illegible] n. 42. [illegible] falsa [illegible] et non [illegible] Pontifices dissimulat [illegible] gratiam [illegible], [illegible] a muliere [illegible] magnum scandalum [illegible] Thomas Sanchez [illegible] n. 42 [illegible] hac solut. [illegible] consanguineos [illegible] susceptam [illegible] humanam [illegible] tenerentur [illegible] prolem susceptam aut [illegible] credere [illegible] ad valorem gratiae [illegible] prolis susceptae [illegible] significasi [illegible] sufficiat [illegible] scandalum [illegible] dissimulatio [illegible] admonitio [illegible] Consanguinitatis [illegible] Thomas Sanchez [illegible] n. 42. [illegible] de matrim. [illegible] Navarro [illegible] quos refert [illegible]
n.o 44.

[illegible] rescriptis [illegible] per ex authoritate [illegible] nec [illegible] significatio cum [illegible] Thoma [illegible] [illegible] Hostiensis [illegible] Nec [illegible] debet [illegible] Neratius [illegible] de testam. [illegible] [illegible] de fideicommissis [illegible] Macedoniani [illegible] [illegible] Gratian [illegible] [illegible] rescriptum [illegible] [illegible] falsam [illegible] [illegible] de Crimine falsi [illegible] ordinarie [illegible] [illegible] rescripto [illegible]
n.o 45.

[illegible] assertio [illegible] ad litteras [illegible] cap. ad audientiam [illegible] cap. 47. [illegible] 32. [illegible] ad audientiam 32. [illegible] Barbosa [illegible] cap. ad audientiam [illegible] rescripta [illegible] [illegible] cap. ad audientiam [illegible] n. 27. [illegible] 29. [illegible] de falsis, l. 2. C. de legibus [illegible] Cornelium [illegible] rescripta [illegible] surreptitia [illegible] 37. [illegible] Sanchez [illegible] n. 68. =

[illegible] [illegible]

n. 26.

Ex his infertur posse iudicem ... stetit rescriptum ... dolose impetratum annullare ... Virt. facta ... petente, ... ex d. cap. Sua litteris ... ei fuerunt facta ... nullatem de causa cognoscat, ... cap. Cum dilectus ... cap. 2 ut lite non contestata, ... de appellat.

Nec obstat huic doctrinae ... de damno infecto, ... iudicis impertiri ... intelligit ...

Cum utilitas ... impetrante; propterea ... quilibet ... auctoritate iudicis ad aliquid faciendum ... intelligit ... quando iudex ... petitis L. 4. C. de magistratibus conveniendis; ... plurimis ... evidentes ... dicendum ... subreptum, ... exceptio ... obstabat nullo ... habere iurisdictionem, vel ... rescripto impetrato fuisse ... subreptum ... habebat ... late ... potuerit ... processus ... rescripti ... poterat, vel ... exceptionem ... ignoraret, ... valuerit, ... ex officio iudex ... poterat ... fuerint ... in d. L. 4. ... Felinus in d. cap. ... Decius ...

n. 27.

n. 29. Plurimos Cleri ... n. 21. ... Nec ignoramus ... quam prodit ... rescripta subreptitia ... Conellius ... cap. 7. ... invaliditate, ... nullitatem ... per ... objectiones, quam ... refert Conellius ... Antonius de Richardo ... dolos ... Faber ... n. 4. ... cap. 108, ... Pascipi ... superiori ... rescripta ... subreptum ... anulari ... in ... quibus ... Superioribus ... excipiendum rescripti ... dolose cognoscitur, ... super ... ad hunc ... de lo, vel si exceptio opponatur ... de subreptione ... dolose ... et tunc procedit ... casibus, ... similibus ... prout ... valet ... et ... cum ... si ... constituit, ... rescripti ... veritatem facta nullum ... rescripti ... obrepta ... veritate ... dicitur, ... dicitur ... simul ... generaliter, ... quae ... veritas debet exprimi, ... declarari, ... rescriptum dicitur subreptitium si impetratum fuerit ... narrat ... in cap. ... cap. 2. cap. Venerabilis ... inutili, ... tat ... Felinus in d. cap. ... Panormitanus ... quae ... Menochius de arbitrariis ... casu 201 n. 20.

Verum ... in nulla obstat ... Pontificium ... Decret...

n. 28.

Videtur ... difficultas in cap. ... 14. de conversione coniugatorum, ubi proponitur mulier ... pudicitiae ... quamvis ex causa ... nullitatem ... dicto ... cap. ... n. 3 ... de conversione coniugatorum, ... Basilius ... de matrimonio cap. ... n. 16. de ... Thomas Sanchez ... de matrimonio ... ad ... refert ... Clericorum ... Sanchez ... Vol. 2 ... de matrimonio cap. ... et alij ... valent ... rescripti ... quamvis ... et adductis. — Haec difficultas ... ingeniis ... rescripti ... impetratum ... nullitate ... in rescriptis ... opinio ... fuerit Navarrus in cap. ... exceptione ... Thomas Sanchez lib. 8. de matrimonio disput. 21 n. 32. — ... Abbas Panormitanus ... difficultatem ... mulier ad ... incidendum ... in causa potuit moveri, 1° ut Deo magis placeret; 2° ... matrimonij ... licet postea ... falsa fuerit, ... vera ... religionis ingrediendi ... in ... tenuerit, propterea ... sufficit ad validitatem rescripti ... Nec hanc solutionem ... obstat ... in cap. Magnae 7. ... de voto ... ex quo ... in ... causa finalis ... obligare ... impulsiva, ... finalis, ... Pontifex movetur ad voti mutandum, ut post alios recte animadvertit ... Sanchez lib. 4 ad ... decalogi cap. 2 n. 7. ...

... illicitum ... (margin)

n. 29.

... secundo ... eandem ... n. 30 ... opinionem ... difficile ... eiusdem ... 3 ... Cum ... falsi ... animum ... nec ... in cap. ex litteris 3. de fide instrumentorum; ... Cum ... apparueret falsi ... abrasi ... scripto ... in ... Dicimus ... abrasi ... fassi ... haberi ... expressi ... Apostolicae ... rasuram ... hue ... indicandum ... nec ... impressio ... habere ... in cap. ... dilectos 6. ... privilegij, ... instrum. cap. ... de fide instrumentorum, cap. ... cap. licet ... cap. Cum Venerabilis ... cap. ... tit. 9. ... de tabelionibus, ... qui habebat 54 ... instrumentorum ... Criminali ... simulat ... n. 40 ... de ... p. 46, ... Barbosa in collect. ad d. ... ad ... in cap. ...

[illegible] Cum abrasione adstante falsitas interveniat, [illegible] est dicta rescripta in quibus falsitas invenitur, aut quo[illegible] dum surreptionis, aut obreptionis esse inutilia, cum contrarium colligi videatur ex [illegible] Alexandri 3. Decret.

n.º 20

Difficultas hic adeo gravis [illegible], ut [illegible] dissolvenda [illegible]

Igitur si quid [illegible] est [illegible] in iure Pontificio interpretando [illegible] per litteras [illegible] procedere; quo rasura facta est in loco [illegible] suspecto, [illegible] est ita magna [illegible] fraudis praesumptionem inducere posset; veluti [illegible] in nominibus [illegible] quibus ad maiorem cautelam fuit facta specialis mentio [illegible] sub [illegible] generalibus [illegible]. Si enim rescripto, vel privilegio [illegible] fuerunt [illegible], quae [illegible] nominibus ducat Pontifex [illegible] certe abrasio in nominibus [illegible] poterit viciare rescriptum [illegible] generalibus [illegible] comprehenderentur, [illegible] ad cautelam mentio specialis facta fuisset, [illegible] hac de causa rescriptum viciatum [illegible] fuisset, quemadmodum [illegible] in narratione facti inveniatur, suspectum [illegible] redditur rescriptum, [illegible] similia est abrasio, [illegible] incunctanter nulla redduntur, nec [illegible] erroneam facti narrationem proceditur, sed [illegible] litteris de simplici iustitia formam habentibus, quas facile posset obtinere, fraudis [illegible] falsitatis, cap. [illegible] Crimine falsi. [illegible] erit si rasura [illegible] facta fuerit, ut aperte colligitur ex [illegible] Decretali Greg[illegible] cap. 3. [illegible] Concilii Lateranensis [illegible] 925. ubi [illegible] habentur, videlicet quod rasura illa [illegible] in loco suspecto, [illegible] tradit Morla [illegible] n.º 4. inde [illegible] quod rasura [illegible] in loco [illegible] suspecto [illegible] praesumitur facta ab scriptore, [illegible] suspecta [illegible] praesumitur facta [illegible] rescripti producente; nisi ab scriptore vel tabellione fuerit mentio facta. Quare ad tollendas huiusmodi dubitationes [illegible] praxis introduxit ut in fine instrumenti ante subscriptionem, vel signum tabellionis dicat [illegible] quod interlineatum [illegible], vel cancellatum [illegible] Suarez [illegible] [illegible] n.º 145. ad [illegible] ex officio tenetur [illegible] quas comprehendit lex 13. tit. 25. lib. 5. recopilationis. quo [illegible] die tabelliones utuntur, ut testatur [illegible] Morla [illegible] cap. ex litteris [illegible] sit, [illegible] abrasione [illegible] dolo partis illud producentis, [illegible] errore scriptoris [illegible], et ideo [illegible] rescriptum [illegible] [illegible], imo firmum et validum esse.

n.º 21.

Denique [illegible] Clarissimi auditores alia [illegible] assertionibus [illegible] explicari; tempus [illegible] explicationi, [illegible] breviter [illegible] adhoc ut [illegible] occasio [illegible] 4. § [illegible] de privilegiis [illegible] videndi [illegible] Abbas Panormitanus [illegible] n.º 8. [illegible] ibidem n.º 3. [illegible] Mascardus de probationibus [illegible] 1260, [illegible] inter [illegible] consulendi [illegible] Panormit. [illegible] Hostiensis [illegible] Antonius Gomez [illegible] n.º 145. [illegible]. Similiter [illegible] interdilectos 6. de fide instrumentorum, [illegible] post Panormitanum [illegible] n.º 12. Felinus n.º 5. [illegible] ff. de rebus creditis [illegible] 33. [illegible] Morla [illegible] n.º 26 [illegible] sequentibus, item [illegible] licet ad regimen [illegible] § quinta [illegible] crimine falsi; [illegible] Panormitanus in cap. finali de crimine falsi n.º 4. [illegible] cap. [illegible] de fide instrumentorum, [illegible] ex [illegible] de crimine falsi [illegible] consulendi [illegible] et Panormitanus [illegible] n.º 2. [illegible] Hostiensis [illegible] n.º 3 [illegible] Azor [illegible] moralis [illegible] 5. cap. 24. [illegible] Mascardus de probationibus [illegible] 1270. [illegible] [illegible] intelligenda [illegible] Speculator [illegible] de instrumentorum editione § [illegible] [illegible] beneficiali cap. [illegible] n.º 2. et 37. [illegible] Cancellariae [illegible] Gregorius [illegible] 5. [illegible] tit. 22. cap. 8. n.º 2. Menochius de adipiscenda [illegible] n.º 709. [illegible] Julius Clarus [illegible] 5. [illegible] n.º 32. [illegible] Barbosa in Collectaneis ad [illegible] in cap. [illegible] [illegible].

n.º 22.

[illegible] 3. et ultima conclusio. [illegible]

[illegible] validis [illegible] fuerint [illegible] rescriptis [illegible] [illegible] concessum [illegible] n.º 719. [illegible] cap. [illegible] [illegible] cap. [illegible] [illegible] tit. 6. cap. [illegible] [illegible] confirmationis [illegible]. = Cum [illegible] quod validitas [illegible] et singularis [illegible] [illegible] [illegible] in cap. [illegible] [illegible] 3. § [illegible] ff. de [illegible] 3. § [illegible] ff. ad Senatusconsultum [illegible] [illegible] 7. § dolo [illegible] [illegible] 10. § 17 ff. [illegible] [illegible] § [illegible] ad [illegible] cap. 93. = [illegible]

[illegible] [illegible]

Vas proveniente, non ignorantia aut simplicitas [illegible] excusat [illegible], [illegible] ab aliis qui ex [illegible] [illegible] [illegible]

nlunt, [illegible] [illegible] per magis attendat [illegible] animi Principis, [illegible] [illegible], et [illegible] [illegible] [illegible]

se [illegible] [illegible] [illegible] veritatis intantur. 1º merito dicimus [illegible] [illegible] abstulit ignorantia rescripti [illegible] [illegible] 2º [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] =

nº 23.

Ut ignorantia excuset à falsitate in precibus requisita in [illegible], debet esse iusta, et probabilis, alioquin si [illegible] et culpabilis intercedat invalidum erit rescriptum [illegible] [illegible] dolo, et [illegible] [illegible] separatur cap. [illegible] 3. §. 1º de clandestina desponsatione, cap. penultimo de clerico excommunicato [illegible] ministrante, cap. [illegible] de temporibus ordinationum [illegible] [illegible] nec [illegible] de facti ignorantia [illegible] §. 1º [illegible] si [illegible] per falsam [illegible] dixerit, [illegible] §. 1. ff. si [illegible] liber esse [illegible] [illegible] [illegible] 8. ff. de edendo [illegible] 29. [illegible] mandati, l. 7. §. 1º ff. de suspectis tutoribus, [illegible] [illegible] 8. §. illud ff. de precario, [illegible] [illegible] [illegible] ff. de interrogationibus actionibus, l. mulier 22. §. [illegible] ad Senatusconsultum [illegible] [illegible] docent ita [illegible] [illegible] [illegible] Menochius [illegible] [illegible] 53. Thomas Sanchez lib. 8. de matrimonio disp. 32 [illegible] [illegible] [illegible] [illegible] adducit quos [illegible] [illegible] omittimus =

nº 24.

Verum [illegible] facilius [illegible] omittere [illegible] [illegible] ex quo [illegible] [illegible] [illegible] cuiuslibet [illegible]. Ignorantia itaque est duplex, altera facti altera iuris [illegible] ignorantia facti illa dicitur quae in solo facto consistit [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Item apud Labeonem [illegible] si quis virginem ff. de iniuriis. Ignorantia iuris appellatur [illegible] quam habet [illegible] [illegible] lex statuit aut [illegible] Princeps fieri [illegible]; Ignorantia iuris et facti [illegible] [illegible] [illegible] in invincibilem, [illegible], aut [illegible] [illegible] culpabilis vocatur. Vincibilis illa quae [illegible] [illegible] [illegible] [illegible] aliquam [illegible] obligat [illegible] cogitationis. Invincibilis appellatur quae [illegible] [illegible], vel [illegible] [illegible] nunquam [illegible] cogitavit, aut si [illegible] dubitavit facta debita diligentia [illegible] notitiam [illegible] [illegible] ignorantia vincibilis iuris, aut facti dividitur [illegible], [illegible] crassam, et supinam. Ignorantia affectata [illegible] [illegible] [illegible] [illegible] [illegible] ignorare, ut liberior [illegible] peccandi facultas [illegible] [illegible] [illegible] [illegible] Psalmo 35. noluit intelligere ut bene ageret, cap. penultimo [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 32 ff. [illegible] [illegible] ff. de O. et A. l. 5. §. dolo ff. [illegible] Legionis, tradunt [illegible] [illegible] ignorantia [illegible] [illegible] Cervino disp. 2. cap. 3º. Tiraquellus de [illegible] [illegible] 7 cap. 13. nº 23. Barbosa [illegible] ad [illegible] [illegible] ff. [illegible] nº 3. et 4. Donellus lib. [illegible] cap. [illegible] = Ignorantia autem crassa [illegible] [illegible] [illegible] [illegible] [illegible] quod quis ignorat et [illegible] debuit [illegible] scire [illegible] [illegible] [illegible] [illegible] [illegible] ff. de iuris et facti ignorantia [illegible] à dolo distinguitur [illegible] [illegible] [illegible] [illegible] [illegible] dolosis, [illegible] [illegible] cap. [illegible] [illegible] de privilegiis [illegible] [illegible] [illegible] [illegible] [illegible] generaliter ff. de liberali causa, [illegible] quos tradit [illegible] Thomas Sanchez ubi [illegible]

nº 25.

[illegible] 39 [illegible] [illegible] doctrinam [illegible] videntur [illegible] [illegible] [illegible] [illegible] ex civili et [illegible] [illegible] videtur [illegible] [illegible] 34 [illegible] [illegible] [illegible] ideoque mandarunt quatenus [illegible] revocato in irritum [illegible] [illegible] [illegible] [illegible] [illegible] rescripti errore et ignorantia [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] civili effet, et quamvis [illegible] [illegible] facile [illegible] rescripti veritatem [illegible] [illegible] [illegible] rescripti [illegible] [illegible] ignorantia [illegible] [illegible] fieri. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] nº 4 [illegible] [illegible] [illegible] [illegible] placet dicere [illegible] [illegible] [illegible] rescriptum [illegible] [illegible] [illegible] [illegible] [illegible] falsa [illegible] demonstratione, [illegible] de certa persona rei. [illegible] certitudinis huiusmodi rescripti [illegible] error et ignorantia [illegible] [illegible] [illegible] certa persona de qua [illegible] creditur [illegible] [illegible] [illegible] §. [illegible] [illegible] de liberali causa [illegible] [illegible] Bartolus in l. demonstratio [illegible] [illegible] nº 11. Afflictus [illegible] 36. = Nec et [illegible] dicere errorem et falsam demonstrationem nocere [illegible] demonstratio falsa [illegible] [illegible] 40 ff. de conditionibus et demonstrationibus [illegible] l. 4. ff. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] sona, [illegible] [illegible]. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] nocere [illegible] rescripti [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

N.o 26.

Hac eadem solutione [illegible] alias difficultas in cap. [illegible] 35. [illegible] ubi decidit rescripti [illegible] ad [illegible] difficultas redditur ex [illegible] appellat. [illegible] cap. 1. de off. iudicis ordinarii [illegible] cap. si [illegible] ordinarii [illegible] nam omnibus [illegible] solutiones [illegible] dec. 22. [illegible] decretis [illegible] et hoc casu [illegible] aderat mentio [illegible] Civitatis [illegible] ideoque quia [illegible] Civitatis in clausula generali subsequuta facta mentione [illegible] runt [illegible] homines Civitatis, ut [illegible] citato [illegible] 22. [illegible] ubi adducit [illegible] cap. [illegible] iudices delegati; [illegible] ter [illegible] et nos iam [illegible] in cap. [illegible] explicandum [illegible]

N.o 27.

[illegible] Videtur difficile [illegible] decretis [illegible] in cap. [illegible] rescripto [illegible] [illegible] secundo [illegible] Vacare [illegible] [illegible] in morte vacaverit, debet [illegible] [illegible] petrarum beneficii [illegible] vacasset [illegible] ad tale beneficium admitti [illegible] quamvis [illegible] [illegible] 44 [illegible] [illegible] vacationis [illegible] [illegible] valida [illegible] [illegible] [illegible] Thomas [illegible] n.o 35. [illegible] cap. 202. [illegible] [illegible]

N.o 28.

In [illegible] relatum in cap. cum [illegible] sacerdotale [illegible] [illegible] quamvis [illegible] [illegible] [illegible] [illegible] Thomas [illegible] [illegible] Nec [illegible] cap. cum [illegible] sacerdota [illegible] [illegible] Thomas [illegible] 83. [illegible]

N.o 29.

[illegible] rescripti [illegible] beneficii [illegible] [illegible] [illegible] ignorantia [illegible] [illegible] beneficii [illegible] [illegible] 27. [illegible] cap. [illegible] 6. cap. 27. [illegible] [illegible] ignorantia [illegible] [illegible] [illegible] beneficii [illegible] [illegible] beneficialibus [illegible] [illegible] docet. [illegible] n.o 22. [illegible]

[illegible]

Marginal notes: [illegible] 53 [illegible]; [illegible]

[illegible] ad [illegible] cap. super litteris = Quæ hæc [illegible] aliis [illegible] Videtur [illegible] moralis [illegible] cap. [illegible] = Verum hanc solutionem ex diametro videtur obstare [illegible]

nº 30

[illegible] impetrans beneficium [illegible] habita mentione [illegible] difficultatem [illegible] ignorantis quam [illegible] illud posse [illegible] Thomas Sanchez [illegible] de matrimonio [illegible] beneficium [illegible] Collatis, licet [illegible] ignoravit beneficium [illegible] Thomas Sanchez [illegible] Barbosa [illegible] de matrimonio cap. 16 [illegible] Memoriam de arbitrariis [illegible] ex [illegible] Abbas Panormit. in cap. super litteris [illegible] 47 =

nº 31

Denique [illegible] ignorantia [illegible] excusentur [illegible] Thomas Sanchez [illegible] de matrimonio [illegible] Suarez de Censuris [illegible] Covarr. in cap. alma mater [illegible] Azor [illegible] observationum [illegible] [illegible] et [illegible] =

nº 32

Pro [illegible] et [illegible] [illegible] procedendi [illegible] nullitatem [illegible] Barbosa [illegible] super litteris [illegible] Decretum [illegible] Abbas Panormitanus in [illegible] =

nº 33

Verum hæc solutio [illegible] [illegible] [illegible] [illegible] Barbosa [illegible] =

nº 34

[illegible] principaliter cognoscere [illegible] [illegible] possit cognoscere. Hæc difficultas [illegible]

ut ex cap. super litteris [illegible]

Utitur quoad secum veritatis [illegible] reseripta, sed ad [illegible] pendere [illegible] de judiciis, et [illegible] dicit Panormitanus in cap. dilecto al. 3. de prebend. et dignitatibus; quamvis cum cognoscans [illegible] delegati pendere [illegible] ex reseripto [illegible] propositis [illegible] quod delegato iudici [illegible] surreptitium [illegible], et itaquamdiu [illegible] tunc cum dubitatur cognoscere debet tanquam de antecedenti ad causam principalem sibi mandatam [illegible] [illegible] iudicis [illegible] iudicis delegati. = [illegible] hoc [illegible] placuerit aliqui [illegible] dicere [illegible] dari [illegible] exceptis [illegible] considerari [illegible] inter causam principalem [illegible] index causam incidentis ut animadvertit [illegible] [illegible] super litteris 1a lectura [illegible] 29 [illegible] de rescriptis. =
pro ulte.

[illegible] si difficultatem [illegible] breviter, et [illegible] animadvertimus dictis [illegible] forsitan de qua [illegible] accipi [illegible] dubitative, sed assertive, et affirmative, quando [illegible] iudicis incompetentis [illegible] ibidem n.o 38. [illegible] 2a lect. 74 [illegible] n.o 20. [illegible] Panormitanus [illegible] [illegible] quod plurimi [illegible] inveniendo, [illegible] opposita, [illegible] vel [illegible] facere procedent [illegible] 21 et 2a [illegible] 31, [illegible] Barbosa [illegible] indissolubiliter [illegible] [illegible] = [illegible]

= [illegible] Cui omnipotens laus [illegible], [illegible] gloria =

= [illegible] sanctus [illegible], nec [illegible] =

= [illegible] =

+

Relectio ad tex. in cap. ex parte 12. de rescriptis — lib. 1. tit. 3.

Scheda. 3.as

= Relectio ad Textum in cap. ex parte 12. de rescriptis =

Cum iam diu cogitarem qualis opus vobis auditores nobilissimi, utilis et gratius fuerit, existimaui omnem meum laborem impendere in enodandis aliquibus Pontificis Decretis; et inter tot, tantaque, quibus nostra sacra Canonica continentur, elegi quas authorem habent Clementem 3um Pontificem Maximum; sic sine nube luce me destinauit Deliberatio mea, tum ex excellentia, et sublimitate, quam tanti Pontificis continent decreta, tum etiam ad certum est, quoniam haec nostra sunt destinata, quorum Clementis semel, et iterum expecto, ubique Clementis quaerens, Clementis inueni decisiones, quas omnes nunc explicandas consideror. Polliceor itaque in unoquoque quibus utiliora, et facilia pro posse vera, et aut unusquisque vestrum dubitatio tollent et qualibet ex illis recte scoret ... hora in ... cathedra, canonicatu, beneficioque, eum modo desideraret. ... auditores ... et memoribus dedicissimum attendite.

n. 1.

Ut igitur Clementis 3. ... decisionem incipiam explicare ... inter ... 12. de rescriptis; quam ... Clemente 3o Pontifice ... Decisio ... Clemens 3us Pontifex ... Romanus ... antequam Pontificatus culmen ascenderetur ... Joannes Patrem ... Paulum ... Alexandro ... Cardinalis ... 1188 ... Romanos ... Lucius 2us ... Alexander 3us ... Romanus ... Gregorius 8us ... Lateranensi ... Platina ... Pontificum ... Chronicon ... textum n. 2.

n. 2.

Hac breviter de Pontifice ... Romanus ... Capellanus ... Oduardus ... Capellam ... Oduardus ... appellationem ... Capellanus ... appellatum ... Oduardus ... Clemens 3us ... Capellam ... Oduardus ... appellat ... Apostolica ... Pontifex ... 202 ... 1. cap. 2. ... 2. cap. 29. ... 7. ...

n. 3.

Petrus Gregorius ... ad hunc ... textu in tractu de Benef. ... Barbosa in Collectaneis ad ... num. ...

Sed licet ... sententia, et conclusio verissima sit; tamen sequentibus dubitandi rationibus obscurari videtur, et 1° quia ... in ... asseritur rescripta in quo mentio facta ... fuit de 1° valere, et ... fuit dolus ... obstat ... generalis ... quo ... rescripta ... valere ... de primo fiat mentio, ... cap. ... ex litteris 29 de ... cap. de dolo, et contumacia, cap. ... de re iudicata, cap. ... de ... clericorum, ... generaliter, ... aliqua ... doceat rescripta ... valere ... de ... mentio, ... rescripta validus ... mentionem ... fuerat ...

Videtur tertio in hac dubitandi ratio ex sequenti consideratione, dicimus ... rescripta de 1° mentionem ... faciens valere ... quod ... rescripta fuit dolosum, et surreptitium, ... nullum, at rescripta in quo surreptio, vel dolus adest validus, et firmum ... ut probant ... C. ... quibus ... dolosum valere ... posse; ... rescripta debuit valere non obstante ... vel dolo, ... in 2° ... mentio ... debuit ... dictis.

n. 4.

Qua ... dubitandi ... non obstantibus nec quidquam ... facientibus. Dicendum est ... secundum rescriptum de ... mentionem ... faciens, ... surreptitium, ... non est; validum est; ... decidendi ... nulla ... et valde ... generaliter ... textus de rescriptis loquitur ... assumentes dicimus rescripta vario solere definiri, ut constat ex Panormitano in rubrica de rescriptis n. 2. ... n. 1. Rebuffo ad ... de rescriptis ... 22. ... moralis ... 5. cap. 24. ... n. 6. ... aliter definierunt rescripta ... aliter rescripta ... quibus omnibus omissis ... placet definitio tradita à ... 1. ... quia ita rescripta definiuntur ... litteris, quibus Princeps, aut alius ... libello ... adaptis, à Magistratibus, aut iudicibus, ... à privatis aut ... etc. Cuius definitionis tanquam veri, ... singula verba sigillatim ... explicare ... libello summarie explicati ... Petrus Greg. ... 1. de rescriptis cap. 1. n° 4.

n. 5.

... dicendum est ... solere à Principe ... seculari, quam ecclesiastico. Romanus ... constat ... Decretalium libro ... 1. de ... 41. ... Gregor. ... Princeps à seculari constat ... Theodosiano, et Justinianeo, qui ex rescriptis ... constituti ... à ... in l. ... 75. § ult. n. 4. ff. de ... licet ita se habeat, ... tamen quandoque ... ut inferiores rescribant, et hoc facere posse legatos Apostolicos constat ex ... Vienne ... rescripta ... rescripta ... docent ... Rebuffus ubi ... n. 16. ... l. ... 57. § ult. ff. ... Barbosa ... libellus ... l. ... ff. de ... l. ... ff. ad l. Cornelia de falsis ... n. ... consultis fuit observandum, quibus publice respondendi facultas data erat, l. 2. ... observ. ... solebant enim consulti respondere ... Seneca lib. 5. de ... ut ... rescriberet, Sidonius lib. ... epist. 15. ... observatio ... rescripta ... l. ... de bonorum possessionibus, ... 46. ... l. ... 99. ff. de re iudicata ... 20. ... de ... legat. ... 3. ... lib. 12. observ. cap. 6. qui rescribendi ... deinde ... solerent ... 20. ... de ... libertat. ... rescribere ... l. ... 25. ... de ... l. ... 52. § ... ff. ... Principes ... libellos, aut epist. ... si enim absentes aliquid à Principe ... desiderabant solebant adire ... libellos ... Suetonius in Augusto c. 45. et 55. ... cap. ... lib. 1. de ... Augustus cap. 34. ... l. ... 45. l. ... 32. § ... ff. de receptis arbitris l. licet 23 ff. de usufructu ... l. ... ff. de ... libellis duplicibus ... subscribebat ... subscribendi ... ff. de censibus ... notat ... lib. 4. observ. ... n. 110. ... Principes ... 101. ... rescripta ... ff. de ... ut denique ... Principes Magistratibus ... rescribere solebant, que ... Magistratus, provinciarum rectores ... dubitantes ...

Vestiebant legis [illegible] et ij ad hos consultati rescribebant, L. 1. ff. de appellat. § verum 16. § [illegible] minoribus, L. 1. ff. de ventre inspiciendo; nec tamen omnibus [illegible] Principi [illegible], ut [illegible] Solere 6. § [illegible] ff. de [illegible] praeventulis; sicet aliquando iudices et privati [illegible], eisque Principes rescribebant L. [illegible] C. de relationibus, l. Imperator 28. ff. de statu hominum, § [illegible] L. generaliter 5. ff. de off. praesidis. L. 1. ff. de quaestionibus, [illegible] Sese alibi, cum rescripta varijs nominibus solebant nuncupari, aliquando epistolae, formae, sacri affatus, sacra oracula, orationes, adnotationes, [illegible], explicant Amaya [illegible] an. 106. Petrus Greg. [illegible] #1. De rescriptis [illegible]

Quibus addo rescripta [illegible] Codice Theodosiano, notat Fermin. #4. quotidianarum c. 29. = Et

Denique [illegible] Principes in dubio [illegible] [illegible], L. 2. C. de diversis rescriptis, L. [illegible] [illegible] [illegible] publicis, L. ut responsum 15. C. de transactionibus. [illegible]

Principem [illegible] [illegible] [illegible] [illegible] Menochius [illegible]

[illegible] lib. [illegible] n. 201. = [illegible] notandum est [illegible] rescriptum [illegible]

No. 6.

[illegible] titulo C. de [illegible] rescriptis [illegible], qui [illegible] rescriptis [illegible] ut notat [illegible] Fermin. [illegible] a [illegible] titulis De rescriptis [illegible] generalia [illegible]

[illegible] de diversis rescriptis [illegible] cap. [illegible]

[illegible] cap. [illegible] #6. [illegible] gratiae [illegible]

[illegible] communiter [illegible] rescripta gratiosa [illegible] beneficia, dispensationes, et alia similia [illegible] cap. [illegible] #6. [illegible] Rescripta [illegible] [illegible] in [illegible] rescriptis [illegible] titulo. [illegible] inter haec rescripta [illegible] sunt plures differentiae, quas [illegible] Rebuffus [illegible] differentiae [illegible] Rescripta [illegible] Petrus Greg. [illegible] De rescriptis [illegible] cap. [illegible] n. 21. [illegible] rescripta [illegible] =

No. 7.

Denique [illegible] accedamus [illegible] [illegible] rescripti [illegible] mentionem non faciens [illegible]

[illegible]

[illegible] rescripto [illegible] cap. pleruque 23. [illegible] cap. [illegible] 29. [illegible] De rescriptis [illegible] cap. [illegible] n. 202. n. 62. [illegible] 76. = 2o [illegible] Antiquioris [illegible] =

No. 8.

[illegible] rescriptis [illegible] veritatis [illegible] reticita veritate [illegible] cap. [illegible] 15. cap. [illegible] 40. cap. [illegible] 20. [illegible] 31. cap. [illegible] 32. [illegible] 37. cap. [illegible]

[illegible] Thomas Sanchez [illegible] de Matrim. [illegible] 6. [illegible] 22. et 33. [illegible]

[illegible] rescriptis cap. 49. et 50. [illegible] cap. 202. [illegible]

[illegible]

[illegible] #6. cap. [illegible]

[illegible]

[illegible]

[illegible]

[illegible] notabile [illegible] rescripti [illegible]

[illegible] sequitur [illegible] ad [illegible] ne [illegible]
[illegible] rescripto [illegible] aliqua [illegible] in cap. [illegible]
[illegible] in cap. [illegible] ex Lato [illegible]
[illegible] de appellat. [illegible] quam [illegible] tradunt [illegible]
[illegible] I. [illegible] confirmat [illegible] quod tradit Molina [illegible]
[illegible] primogenij [illegible] facere [illegible] vel [illegible]
[illegible] aliquid [illegible] alienandi [illegible] erat [illegible]
[illegible] in libello oblato Regi explicaretur [illegible] majoratus [illegible] ita docet [illegible]
[illegible] n. 15 = [illegible] consideratio [illegible]
[illegible] non [illegible] fuerat surreptitium [illegible] sed [illegible] ex alijs [illegible]
[illegible] valeret, nec [illegible]
[illegible] nec decidenda [illegible] = [illegible] dissolvere [illegible]
[illegible] rescripti [illegible] fuisset nullus [illegible]
[illegible] = Verum [illegible]
omnis [illegible] tradita [illegible] decidenda [illegible] ratione [illegible]
[illegible] rescripti [illegible] provisio [illegible]
[illegible] ita tradit [illegible] Vitato.
[illegible]
[illegible] non obstat [illegible] ratio [illegible]
[illegible] generalis [illegible] rescripti [illegible] validitas [illegible]
[illegible] valenti [illegible] fuerat facta mentio [illegible] Nam [illegible] rescriptum [illegible]
[illegible]
[illegible]
[illegible] = [illegible]
cap. [illegible] rescripti [illegible] valere [illegible]
[illegible] non faciens [illegible]
[illegible]
[illegible] et verius [illegible] de surrept. [illegible]
[illegible] dictam [illegible] solutionem tradunt [illegible]
[illegible] Valentes [illegible] n. 4. [illegible] =
[illegible]
[illegible] decidendi [illegible]
[illegible] Eduardus Diaconus [illegible] dictam [illegible]
[illegible] ex quibus [illegible] Eduardus Diaconus [illegible]
[illegible] spoliatus adversarij [illegible] appellans [illegible]
[illegible] spoliatus adversarij [illegible] appellat. [illegible]
[illegible] in cap. [illegible] de appell. [illegible] cap. [illegible]
[illegible] appellationi renunciaverit [illegible]
[illegible] visa est [illegible] varia [illegible]
[illegible] Barbosa [illegible]
[illegible] de appell. [illegible]
[illegible] spoliatus adversarius [illegible] appellationem [illegible]
[illegible] ubi [illegible] appellat. [illegible]
[illegible] = [illegible] difficultas [illegible]
[illegible] spoliatus adversarius [illegible] appellat. [illegible]
[illegible]
[illegible] ad [illegible]
[illegible] cap. [illegible] de appell. [illegible]
appellationem [illegible] de appellat. [illegible]
[illegible] Eduardus [illegible] appellat. [illegible]
[illegible] = [illegible]

... tempore quo pendebat appellatio ... appellationis a ... facta, ut ex ... constat ... [illegible] ... fuit prosequuta ... in expensis ... Accedit etiam urgens ratio ... Spolij appellantis renunciata fuit appellatio ... ante quam appellatio renunciaretur ... integra ... Sententia ... ante fuisset renunciata. = Quam ... [illegible]

n. 10.

... quia adhuc ut ... Spolij ... [illegible] ... sententia appellationi ... requiritur ... renuntiavit ... [illegible] ... Superba ... appellationi ... indignus ... sed non ... Sententia ... de ... [illegible] ... tradit Menochius de recuperanda ... n. 71 ... [illegible]

Dicitur ... quia non ... appellatio ... [illegible] ... Spolians ... renuntiare ... [illegible] ... prosequuta appellatio ... Menochius de arbitrarijs ... cent. ... [illegible]

n. 11.

... quibus ... de appellatione facta fuerat ... biennium a tempore appellationis ... [illegible] ... transacto biennio a tempore ... appellationis ... [illegible] ... Clem. ... de appellat. ... [illegible] ... appellat. ... [illegible] ... biennium ... appellatio ... [illegible] ... Spolio ... [illegible] ... biennij ... [illegible] ... sententia ... [illegible] ... appellatione ... prosequutio ... expensis ... [illegible] ... Clem. ... de appellat. = Inter ... Innocent. ... [illegible] ... Barbatia ... appellatio ... [illegible] ... = Quare ... appellatio ... prosequi ... [illegible] ... Parisius ... [illegible]

n. 12.

... appellatio ... [illegible] ... necessario ... condemnatione ... expensis ... [illegible] ... Sententiam ... [illegible] ... Difficulta ... [illegible] ... expensis ... [illegible] ... Sententia ... [illegible] ... expensis ... [illegible]

Practic. q. [illegible] 27. Greg. Lopez in l. 7. tit. 22. p. 3. Nec tunc obstat quod in nostro casu facta fuerit expensarum
Condemnatio [illegible] quia ipsa [illegible] fuit appellata ante lapsum Bienni [illegible] appellatio [illegible]
ut posteriorem [illegible] ad finem, cum [illegible] erat, ac per [illegible] appellans [illegible] appellat. [illegible]
[illegible] in expensis ex [illegible] in cap. reprehensibilis 26. cap. Nicolaus 64. de appellat. ita tradit Cardin. [illegible]

n.° 13.

Deinceps interpretandus venit Innocentius 3. Decretum relatum in
cap. ex tenore 26. eodem tit. de rescriptis ex quo [illegible] aperte colligitur quod quando diversa rescripta super eodem
negotio impetrantur, nec 1.um nec 2.um stare debet. at in nostro casu duo rescripta fuerunt impetrata super [illegible]
[illegible] nec 1.um nec 2.um debuit valere, quemadmodum non valent rescripta de quibus in dicto cap. ex tenore. [illegible]
cultati facilime respondere potest [illegible] procedere et locum habere quando diversa rescripta
impetrata fuerunt a diversis personis, quo casu [illegible] erat ut 2.um valeret, sive 1.o mentio [illegible] facta fuit
et valet propterea quod 1.um surreptitium [illegible] fuerat [illegible] ratio [illegible] tamen in dicto cap. ex te-
nore procedit quando rescripta fuerunt impetrata ab una eademque persona [illegible] diverso [illegible]
[illegible] commodo utrumque caret, quia sibi imputari videtur [illegible] in cap. [illegible] l. 17. [illegible]
l. [illegible] l. 1. tit. 18. p. 3. tradit Italian. Doctrinis in cap. [illegible] eodem tit. de rescriptis [illegible]
adversarii.

n.° 14.

Rursus interpretandus [illegible] Alexandri [illegible] nobilis [illegible] Dicentis
[illegible] et [illegible] judices delegati, [illegible] duo rescripta diversa a diversis
personis impetrata, in quorum altero exercendo, et executioni mandando [illegible] dubitare
[illegible] in execut. rescriptorum supersedere donec Romanus [illegible] et [illegible]
cognoscant plenius voluntatem. Ex quo duplex [illegible] videtur difficultas [illegible] quatenus in nostro [illegible] expecta[illegible]
[illegible] voluntas, nec ipse [illegible] potius ab aliquo alio facto statim valida [illegible]
[illegible] quod 1.um fuerat surreptitium [illegible] difficultas [illegible] nam certaminis [illegible]
[illegible] de 1.o mentionem [illegible] faciens invalidum [illegible] et [illegible] valere ut [illegible] dicimus, at in [illegible]
[illegible] mentio facta non fuit de 1.o rescripto in 2.o [illegible] debuit valere absque aliqua consultatione [illegible]
[illegible] difficultati [illegible] obstantiae dicendum [illegible] et [illegible] in dicto cap. 1. de [illegible]
Delegati. Nec obstat illa prima difficultas, nam dicendum [illegible] in nostro casu [illegible] rescripta [illegible]
fuisse, qui ipse aperte constituit 1.um rescriptum surreptitium fuisse, ob [illegible] non valuisse secundum, at [illegible]
sane dubium fuit quale 1.um quale 2.um [illegible] ob quam [illegible] Romanus [illegible] declararet,
ca[illegible] constat. Nec obstat secunda difficultas, nam dicendum verissimam esse [illegible]
[illegible] rescriptum de 1.o mentionem non faciens invalidum et inefficacem esse. [illegible] non obstat decisio [illegible]
rescripta [illegible] quia [illegible] rescriptum erat impetratum [illegible]
[illegible] vel etiam diversis judicibus, vel etiam eidem, qui diversa rescripta [illegible]
[illegible] et [illegible] non poterant cognoscere nec ex uno, nec ex alio rescripto, at in nostro casu
rescripta a diversis personis impetrata, et [illegible] quale 1.um, quale 2.um, quale verum, quale [illegible]
[illegible] quam [illegible] Cardin. [illegible] Demetrio cap. [illegible] n.° [illegible]
[illegible] doctrinam [illegible] in cap. [illegible] eodem tit. [illegible]
[illegible] videndi Panormitanus, Barbatia, et [illegible] de rescriptis, qui [illegible]
[illegible] ex quibus [illegible] eligere poterit.

n.° 15.

Denique [illegible] interpretatio [illegible] in cap. ad aures 4. [illegible]
[illegible] secundum rescriptum de 1.o mentionem faciens invalidum [illegible]
[illegible] primi rescripti validitate, quod [illegible] posterioris [illegible] nullum reddat, [illegible]
Doctrina [illegible] videtur [illegible] dicendum in nostro casu 1.um rescriptum valere [illegible] quemadmodum [illegible]
[illegible] cap. ad aures [illegible] = Cui difficultati respondetur dicendo 1.um rescriptum [illegible] quamvis [illegible]
[illegible] secundum de 1.o mentionem faciens [illegible] nullum [illegible] sed per exceptionem [illegible] annullandum [illegible]
[illegible] adducta [illegible] hanc rem [illegible] et [illegible] textus, at in [illegible] cap. ad aures 4. [illegible]
exceptio [illegible] sententia [illegible] Florentie [illegible] occasione [illegible]
[illegible] Boerio decis. [illegible] 87. quod procedit quamvis [illegible] primi rescripti habeat notitiam 2.um et impetrantem
modo [illegible] ex Felino [illegible] ratio est, quia 2.um rescriptum habet tacitam [illegible]
[illegible] veluti [illegible] impetrantis [illegible]

rescripti

rescriptis, itaque in d. cap. audita valuit quod gestum fuit [illegible] rescripti, et [illegible] impetratus fuerat [illegible] mentionem faciens, in [illegible] antea [illegible] praelatus fuit [illegible] [illegible] [illegible] excipiendo [illegible] [illegible] fuit [illegible] valuit [illegible] [illegible] foret [illegible] = Hactenus de hoc casu [illegible] =

n.° 17

Verum quamvis in d. cap. accepta [illegible] [illegible] vi obstare exceptionem renuntiationis, et restitutionem [illegible] denegari [illegible] [illegible] exceptionem renuntiationis [illegible] minime [illegible] [illegible] ut probant [illegible] 2 [illegible] in [illegible] in casu [illegible] [illegible] [illegible] Gratianus [illegible] [illegible] [illegible] confirmatione [illegible] [illegible] beneficij. n.° 3. [illegible] n.° 2. [illegible] [illegible] cap. [illegible] [illegible] n.° 6; [illegible] [illegible] in d. cap. [illegible] [illegible] [illegible] decisionem [illegible] beneficij renuntiationem [illegible] [illegible] [illegible] [illegible] admitti, [illegible] denegari [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] admitti [illegible] [illegible] [illegible] [illegible] decretalibus in d. cap. accepta, [illegible] [illegible] n.° ult. =

[illegible] [illegible] [illegible] [illegible] Verum [illegible] [illegible] Joannes Gutiérrez [illegible] confirmatoria [illegible] cap. [illegible] Covarr. [illegible] cap. [illegible] n.° 30 [illegible] cap. [illegible] 1326, Azevedo [illegible] n.° 13. [illegible] n.° 5. [illegible] [illegible] Cujac. [illegible] cap. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

= [illegible] [illegible] =

= [illegible] =

[illegible]

Scheda. 4.ª 20

Ad Cap. Dilectus. 29.
Ad Cap. Capitulum 30
Ad Cap. ad audientiq. 31

} c. de rescriptis —

[illegible] ... [illegible] adversa[illegible] ...

[illegible]

[illegible] anno 1[illegible] ...

[illegible]

[illegible] judices nominaverit [illegible] accedat ad [illegible] liberavit [illegible] sub cuius protectione [illegible] appellationem vel [illegible] [illegible] maii, probant hoc [illegible] de priuilegiis, notat [illegible] in d. capit. [illegible] n. 3. [illegible] n. 7. Decius n. 3. Mascardus [illegible] 723. n. 2. Gail [illegible] [illegible] 4. [illegible] omnes nulla data [illegible] ver audiendus [illegible] videbatur, [illegible] nominandi [illegible] potius [illegible] tiue ad priores iudices expedire. =

No. 6. [illegible] veriss. [illegible] rescriptis [illegible] ad [illegible] iudices [illegible] appellationis [illegible] debere cognoscere [illegible] causa appellationis [illegible] nominare [illegible] appellationis [illegible] debere [illegible] [illegible] iudicibus et [illegible] appellationis [illegible] [illegible] Licet [illegible] protulit, quoniam tunc [illegible] [illegible] hoc casu [illegible] [illegible] quippe nulla data [illegible] [illegible] [illegible] [illegible] cum [illegible] appellationis debebat [illegible] [illegible] appellare [illegible] priuilegiis, notat [illegible] decis. 221. [illegible] decis. 386. no. 46. [illegible] [illegible] Caesare [illegible] [illegible] appellat. [illegible] adimit, [illegible] [illegible] [illegible] Cobb. tract. [illegible] [illegible] ad Principem appellare [illegible] nullus [illegible] appellatio, [illegible] [illegible] appellat. ad [illegible] [illegible] no. [illegible] [illegible] [illegible] [illegible] [illegible] iudices nominauit [illegible] [illegible] [illegible] [illegible] capit. [illegible] de appellat. [illegible] tradit [illegible] no. 9. =

No. 7. Et [illegible] [illegible] legitime [illegible] iudice [illegible] habita appellatione [illegible] [illegible] [illegible] Cum [illegible] 19. [illegible] cap. [illegible] 36. [illegible] cap. [illegible] 42. [illegible] [illegible] §. 6. [illegible] §. 8. ff. de appellat. [illegible] 26. [illegible] tradunt [illegible] 27. [illegible] [illegible] [illegible] appellationis [illegible] [illegible] de appellat. [illegible] [illegible] [illegible] Cobb. tract. [illegible] 2. [illegible] Nec [illegible] cap. [illegible] de appellat. [illegible] [illegible] post appellationem [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] revocare [illegible] cap. [illegible] 46 hoc [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] =

nº 8. [illegible] appellat. [illegible] sententia [illegible] interlocut. [illegible] appellat. [illegible] praecedentium [illegible] licet regulariter [illegible] appelletur nisi [illegible] interloquutoria [illegible] admittenda appellatio [illegible] de appellat. [illegible] nº 100. [illegible] appellat. et admittendis [illegible] procedebatur [illegible] Loco [illegible].

nº 9 Difficiliores habet [illegible] decidi [illegible] duas [illegible] beneficia [illegible] admittendo appellatio [illegible] debent [illegible] examinare [illegible] beneficia habebat [illegible] beneficia residentiam [illegible] Loco [illegible] domicilium [illegible] § [illegible] similiter nec beneficia [illegible] appellati [illegible] cognoscere [illegible].

nº 10 [illegible] appellationis [illegible] nominatis [illegible] [illegible] appellationis [illegible] [illegible] appellationes [illegible].

nº 11 [illegible] appellationem [illegible] n. 200 [illegible]

[illegible] ex [illegible] causa [illegible] intendit [illegible] ex [illegible]

[illegible] retineat, ideo [illegible] appellationem [illegible] appellans [illegible]

[illegible] superior [illegible] offendatur [illegible]

[illegible] n. 51. Quod [illegible] aliis exemplis hanc interpretationem [illegible] Sarcelo [illegible]

[illegible] de appellat. [illegible] n. 20. [illegible] comprobant [illegible] Donell. [illegible] de interd.

[illegible] 240. n. 23. = [illegible] merito [illegible] Card. [illegible] Gemanum [illegible]

[illegible] appellat. pendente [illegible]

[illegible] superior [illegible]

[illegible] duos [illegible] aliis [illegible] =

Quare hic [illegible] in nullis [illegible] omnibus [illegible] dici [illegible] Card. [illegible]

[illegible] sine periculo attentati [illegible] appellationis [illegible]

[illegible] inferiori [illegible] appellatum [illegible]

[illegible] longe [illegible] de appellat. [illegible]

[illegible] appellat. [illegible] ad superiorem [illegible] appellat. [illegible] merito [illegible]

[illegible] n. 11. [illegible]

[illegible] cognoscere [illegible] appellat. [illegible]

[illegible] appellationis [illegible]

[illegible] cognoscere [illegible] appellatio fuit [illegible] superiorem [illegible]

[illegible]

[illegible] n. 11. [illegible] n. 17. [illegible] n. 21. [illegible]

[illegible] =

[illegible] Secundo [illegible] nobile [illegible] Decretis [illegible]

[illegible] rescripti [illegible] rescripto [illegible] iudices [illegible]

[illegible] quia [illegible] appellatio [illegible]

[illegible] iudicibus [illegible] rescripti [illegible]

[illegible] iudices [illegible] cognoscere [illegible]

[illegible] iudices prioribus, vel e converso [illegible] simul [illegible] cognoscant [illegible]

[illegible] partibus [illegible]

[illegible] rescripta impetrata [illegible]

[illegible] appellatio [illegible] interposita [illegible]

[illegible] rescriptis [illegible]

[illegible] appellationis interveniens [illegible] iudices [illegible] cognoscere [illegible] = [illegible]

Abbas [illegible] Card. [illegible]

[illegible] iudices cognoscere [illegible]

[illegible] cognoscere [illegible]

[illegible] merito [illegible] Baldus, Felinus, [illegible] n. 3. [illegible]

[illegible] =

[illegible] n. 24. Quaeri [illegible]

[illegible] rescripta [illegible]

[illegible] iudices [illegible] appellat. [illegible]

[illegible] iudices debere [illegible]

[illegible] iudices debere cognoscere [illegible]

[illegible] ad diversos iudices [illegible]

[illegible] n. 4. [illegible]

[illegible] iudices [illegible]

[illegible]

[illegible] appellat. [illegible] n. 3. [illegible]

[illegible] appellationis [illegible]

[illegible] debere [illegible]

[illegible] stante [illegible] utrumque ut [illegible] [illegible] vero [illegible]
[illegible] sufficiens [illegible]
[illegible]
[illegible] =

n. 15. [illegible] appellat[illegible]
[illegible] absolut[illegible]
[illegible] appellat[illegible]
[illegible] appellat[illegible] [illegible]. Verum [illegible]
[illegible] absolut[illegible], ut atque [illegible]
[illegible]
[illegible]
[illegible]
[illegible] necessit[illegible]
[illegible] quolibet [illegible]
[illegible]
[illegible]
[illegible]
[illegible] quando [illegible] appellat. [illegible] =

§. Verum de appellat.

n. 16. [illegible]
[illegible] appellat[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible] verum excommunicato[illegible]
[illegible] excommunicat[illegible]
[illegible] appell[illegible] excommunicat[illegible]
[illegible] excommunicatio [illegible]
[illegible] excommunicat[illegible]
[illegible] excommunicationes [illegible]
[illegible]
[illegible] appellatio [illegible]
[illegible] excommunica[illegible]
[illegible]
[illegible] excommunicat[illegible]
[illegible]
[illegible]
[illegible] capite [illegible]

n. 17. [illegible] excommunica[illegible] appellationem [illegible]
[illegible]
[illegible] Sicut appellat[illegible] excommunicat[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]

[illegible] Inquantum [illegible] Cardinalis [illegible] Parisiensis [illegible] ad 103. [illegible] ordinario [illegible] remittenda [illegible] appellatione [illegible] Illud [illegible] Bernard [illegible] Franchis [illegible] [illegible] obtinuit [illegible] Rota [illegible] [illegible] Card. [illegible] tit. 3. c. 29. n. 7. [illegible]

Textus in cap. 30. h. t. de Rescriptis. =

[illegible] abantequam [illegible] diversimode intellexi [illegible] commentariis [illegible] [illegible] quaerere [illegible] intelligi [illegible] illud [illegible] repperiatur ad [illegible] acciperetur tantum [illegible] [illegible] intelligentiam [illegible] illud [illegible] aduerbij [illegible] [illegible] diversa rescripta [illegible] ad benefic. aut canonicatus [illegible] [illegible] quibus [illegible] rescriptis. [illegible] Joannes Andreas, Bald. [illegible] Host. [illegible] illud [illegible] aduerbium [illegible] [illegible] rescripta ad benefic. aut canonicatus obtinendos [illegible] [illegible] impetravit, [illegible] ex quibus [illegible] intellectibus [illegible] nihil placet [illegible] sequentia [illegible] habuimus. =

N.o 2. Igitur [illegible] quidam [illegible] super praebendali benefic. [illegible] obtinendo, 1.o litteras monitorias, 2.o litteras praeceptorias, postea alias [illegible] benefic. [illegible] litter. [illegible] mandarent nulla facta mentione [illegible] canonicatus [illegible] [illegible] [illegible] novas litteras [illegible] mandati [illegible] canonicatus [illegible] mandat. [illegible] [illegible] benefic. praebendali, quia de his [illegible] mandatis [illegible] reperiunt absoluat [illegible] [illegible] [illegible] super litteris [illegible] [illegible] graviorem [illegible] rescriptis [illegible] videamus. =

N.o 3. [illegible] rescriptis [illegible] impetratis [illegible] benefic. [illegible] cap. [illegible] litteras [illegible] [illegible] 19. [illegible] 12. [illegible] tit. [illegible] [illegible] homo [illegible] de auro [illegible] [illegible] Baldus, Felinus, et Host. [illegible] Octauianus [illegible] benefic. [illegible] Cancellar. [illegible] 15. [illegible] [illegible] 27. [illegible] 12. [illegible] [illegible] Barb. [illegible]

N.o 4. [illegible] [illegible] [illegible]

impetrauit

[illegible] rescripti [illegible] propterea [illegible] tamen [illegible] dati, et [illegible] principis [illegible] omnibus [illegible] [illegible] Barboza [illegible] ex noxa [illegible] sit, [illegible] qui [illegible] debet dari ad [illegible] [illegible] actionibus et [illegible] [illegible] adstante [illegible] nihil obstante nec [illegible] [illegible] noster [illegible] [illegible] excoe [illegible]

nº 5. [illegible] quatenus [illegible] duobus rescriptis [illegible] valere [illegible] admittatur [illegible] quomodo [illegible] valeat, [illegible] valde [illegible] redditur [illegible] valet [illegible] est [illegible] [illegible] de [illegible] [illegible] posterius rescriptum debebat [illegible] [illegible] intelligatur [illegible] rescripta [illegible] [illegible] nihil interest [illegible] rescriptis prius aut posterius [illegible] adhoc ut ad bene [illegible] [illegible] admi [illegible] rescripto [illegible] tamen extat in rescripto [illegible] tempus datis [illegible]

nº 6. Denique [illegible] in rescriptis [illegible] obstat [illegible] consideratio, [illegible] Principis gratia [illegible] Principis [illegible] gratia [illegible] [illegible] [illegible] similiter [illegible] ex [illegible] [illegible] gratia [illegible] dicitur, [illegible] 99 [illegible] decis. 94. [illegible] 4. nº 2. de [illegible] [illegible] Barboza [illegible] [illegible] intelligitur [illegible] gratia [illegible] tempus [illegible] quippe illud ad nihil [illegible] colligitur, [illegible] alterius, ac [illegible] [illegible] clamat.

nº 7. Quibus [illegible] [illegible] Vera [illegible] [illegible] duobus rescriptis [illegible] ad benef. [illegible] [illegible] attendens et adhuc [illegible] admittam, [illegible] rescripto [illegible] [illegible] [illegible] [illegible] Valdesilla, [illegible] [illegible] [illegible] rescriptis [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] de rescriptis nº 2. [illegible] [illegible] rescriptis [illegible] nº 22. [illegible] [illegible] rescriptis [illegible] [illegible] rescriptis [illegible] 1º [illegible] moral. [illegible] cap. 24. [illegible] [illegible] aliter rescripti [illegible] [illegible] tractat [illegible] [illegible] quibus Princeps, aut alius superior [illegible] [illegible] [illegible] rescripti [illegible] [illegible] tanquam [illegible] [illegible] [illegible] explicare [illegible] [illegible] [illegible] [illegible] nº 4.

nº 8. [illegible] rescripta impetrari [illegible] a Principe superiori [illegible] [illegible] ex [illegible] Decreti [illegible] Quarano [illegible] [illegible] Decretalium [illegible] [illegible] ex [illegible] [illegible] rescripto Imperatoris [illegible] Quaranta [illegible] Barboza [illegible] 75. § ult. [illegible] [illegible] [illegible] [illegible] tamen [illegible] accidit [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] nº 16. [illegible] [illegible] ut patet ex [illegible] 57. § ult. ff. [illegible] Cujacius, et Barboza [illegible] [illegible] [illegible] 18 [illegible] [illegible] tribunali cap. 6. [illegible] [illegible] [illegible] data erat § 2. ad [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] nº 3. [illegible] [illegible] [illegible] 3. [illegible] 11. [illegible] [illegible]

[illegible] ob [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] n. 201.

n. 9. [illegible] notandus est varia rescriptorum [illegible], ut [illegible] [illegible] [illegible] [illegible] rescriptis, et [illegible] quidem [illegible], in de rescripto [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] multis. [illegible] quaedam [illegible] generalia, quaedam singularia, item alia perpetua, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 23. hoc [illegible] cap. [illegible]. Rescriptum [illegible] [illegible] quae iubent [illegible] litigatoribus [illegible] [illegible] exhibere, de quibus [illegible] [illegible] [illegible] [illegible] hoc [illegible]. Plane [illegible] haec rescriptorum [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] rescripta [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] rescripta [illegible] [illegible] [illegible].

n. 10. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] litterarum [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] beneficiis vacaturis. [illegible] [illegible] litteris [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] quibus [illegible] [illegible] beneficia conferrent [illegible] [illegible] [illegible] [illegible] litterae [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] conferre mandatariis beneficia [illegible] [illegible] vacarent [illegible] conferre mandatariis beneficia [illegible] [illegible] litterae [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] beneficia [illegible] [illegible] [illegible] collatio [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] volume [illegible] [illegible] [illegible] rescripta [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] de rescriptis [illegible] 6. [illegible] [illegible] 12. de rescriptis [illegible] [illegible] [illegible] litteras [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 7. [illegible] 9. [illegible] [illegible] 87. de litteris [illegible] [illegible] [illegible] [illegible] de rescriptis [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible].

n. 11. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] attendendum [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] obtinendo beneficio [illegible] dignitatibus [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 3. C. de [illegible] [illegible] 12. [illegible] mandatis [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 22. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 22. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] rescriptis [illegible] [illegible] [illegible] rescripti [illegible] 8. cap. mandat 38. hoc [illegible] amittat, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] exclusive [illegible] n. 2. [illegible] [illegible] [illegible] [illegible] de rescriptis [illegible] [illegible] [illegible] 6. [illegible] [illegible] [illegible] [illegible].

n. 12. [illegible]

Vel ad [illegible] annullatur per [illegible] accidens [illegible]. Cum [illegible] mer acumur [illegible] nulli adhiberetur nec [illegible] [illegible] [illegible] aut nullatenus [illegible] [illegible] [illegible] impetrans [illegible] [illegible] loquuntur [illegible] [illegible] [illegible] [illegible] [illegible] Nec tunc [illegible] [illegible] creditorum [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] expectatur [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

no 3 Facilius [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] simpliciter impetratus [illegible] valide [illegible] [illegible] [illegible] valere [illegible] attendatur [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] cap. 25 no 6 [illegible] [illegible] [illegible] [illegible] no 24 [illegible] [illegible] [illegible] ad Decretales [illegible] 128 [illegible]

no [illegible] Baldus [illegible] [illegible] [illegible] [illegible] no 4

no 5 [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Felinus [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Validam [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

no 6 [illegible] solutio [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] ipse Cabbeus [illegible]. Quapropter ut de hac difficultate liberemur, ex mente [illegible] quorum [illegible] diversis [illegible], at ubi [illegible]
[illegible] ad substantiam et valorem [illegible], ad habilitatem [illegible] incapacitatem [illegible]
[illegible] veluti [illegible] et [illegible]
[illegible] tenent ab [illegible], vel [illegible] ignorantia [illegible]
[illegible] executionis. [illegible]
[illegible] ut [illegible] tempus [illegible]
[illegible] Felinus [illegible]
ut [illegible] 89. de appellat. [illegible] Felinus [illegible] 7. [illegible]
[illegible] 12. de appellat. [illegible]
[illegible] litterarum [illegible]
ad receptionem posteriorum litterarum, [illegible] Felinus [illegible]
[illegible] Coll. [illegible] 9. [illegible] rejectio. [illegible]
[illegible] 27. [illegible]
[illegible] 5. [illegible]
n. 27. [illegible] 6. [illegible]
[illegible] impetrantis, [illegible]
[illegible]
[illegible] 11. [illegible] 6.
[illegible]
[illegible] beneficii habilis [illegible] 29 [illegible]
[illegible]
[illegible]
n. 28. [illegible] solutionis, [illegible]
[illegible] 29. [illegible]
[illegible]
sed ad [illegible]
[illegible] vacaturo, [illegible]
[illegible] Archidiaconus [illegible]
[illegible] 3. [illegible] 9. n. 12. [illegible]
[illegible] videre [illegible]
[illegible]
[illegible] Pitheus [illegible] 2. [illegible]
[illegible] 9. 12. n. 4. [illegible]
[illegible]
[illegible]
[illegible] debeat, [illegible]
[illegible] facti [illegible]
[illegible] 8. [illegible] 12. [illegible]
n. 29. Multum [illegible] 6. [illegible]
[illegible] ordinis, [illegible]
[illegible]
[illegible]
[illegible] Parrochialibus [illegible]
Sacerdotis [illegible] 15. [illegible]
n. 36. [illegible] 9. n. 37. [illegible] Nicolaus [illegible] beneficii [illegible]
[illegible] ordi[illegible]
[illegible] 23 [illegible]
[illegible] n. 3.

[illegible]

n.° 20 Rursus ex mente decidendi rationem [illegible] Venit notandum [illegible] ut litispendentia [illegible] exeunt decisione [illegible] duobus litigantibus [illegible] [illegible], et altero ex illis succumbente [illegible] [illegible] [illegible] litteras ad idem beneficium [illegible] habeant, [illegible] ipse [illegible] [illegible] ubi [illegible] rescriptum impetravit admitti [illegible] prius rescripti impetratione [illegible] [illegible] attenditur data litterarum [illegible] statuitur: Cuius difficultatis [illegible] [illegible] [illegible] quibus [illegible] [illegible] [illegible] [illegible] conferendum, referentes [illegible] [illegible] qui [illegible] [illegible] [illegible] [illegible] maximum Sacrosanctam [illegible] [illegible] [illegible], [illegible] [illegible], vel renuntiavit, quasque [illegible] [illegible] [illegible] Rebuffus [illegible] beneficialibus de subrogationibus [illegible] Petrus [illegible] de [illegible] [illegible] 54. 4. 6. [illegible] 16. [illegible] 17. = Nec mirum videri debet [illegible] [illegible] rescriptum habens [illegible] conferendus [illegible] [illegible] [illegible] posteriori rescripti impetratorem [illegible] impetrantibus [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] admitti [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] casibus [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] posteriori [illegible] conferendus [illegible]. =

n.° 21 Denique [illegible] decidendi rationem [illegible] [illegible] [illegible] duobus [illegible] [illegible] [illegible] [illegible] [illegible] [illegible], [illegible] [illegible] rescriptum [illegible] generale, [illegible] speciale [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 38. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Nec refertur speciale rescriptum [illegible] faciat [illegible] [illegible] [illegible] [illegible] [illegible] Licet [illegible] [illegible] [illegible] [illegible] subsequatur [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 9. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 128. =

n.° 22. Adversus quam [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 6. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] quis potior sit in pignore habeatur, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] generali rescripto [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 67. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 6 [illegible] =

[illegible] in causa [illegible]

31. [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] litteras a Sede [illegible] [illegible] [illegible] [illegible] providere [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] litterarum litterarum [illegible] [illegible] [illegible] [illegible] litteras [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] facto [illegible] [illegible] Pontifex [illegible] [illegible] Apostolice Sedis Legato [illegible] [illegible] ut [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] nullius beneficii admittendi [illegible] [illegible] litterarum adeo ut [illegible] [illegible] [illegible] [illegible] omnino [illegible] irritetur [illegible] annulletur. =

[illegible] Ex hac facti [illegible] [illegible] [illegible] qui litteras Apostolicas [illegible] [illegible] [illegible] [illegible] [illegible] personam [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] cuiuslibet alterius [illegible] [illegible] [illegible] facti [illegible] licet [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 17. [illegible] 19. [illegible] litteris 20. [illegible] [illegible]

aut verisimile

[illegible] 17. de rescriptis [illegible] 6.

cap. postulasti [illegible] num. 32. et ex [illegible] 37. [illegible] 22. hoc n° [illegible] caus. 2 de
filiis presbiterorum; cap. [illegible] 4. de [illegible] Vicarijs, cap. [illegible] de [illegible] Clericorum, et dicenti [illegible] 25. q. 2. [illegible] in l. 1. ff. [illegible] vers. [illegible] 29
[illegible] l. ult. §. ult. [illegible] qui a [illegible] C. [illegible] Utili[illegible]
[illegible] Gregorio [illegible] l. 7. tt. 18. [illegible] [illegible] hanc materiam [illegible] ad
[illegible] Gonçalez ad [illegible] Cancellarie [illegible] 36. n° [illegible] Suarez [illegible] Canonicus
cap. 15. [illegible] Menochius de arbitrarijs casu 201. n° 41. Thomas
Sanchez [illegible] 16. [illegible]
cap. 3. [illegible] Didaco [illegible] super [illegible]
[illegible] Barbosa [illegible] ad [illegible] =

n° 8. [illegible] ex
sequentibus dubitationibus [illegible] ex dolo; [illegible] validis [illegible]
[illegible] impetrans [illegible] a dolo vel negligentia [illegible] hoc [illegible]
[illegible]
[illegible] habere, [illegible] posterioribus [illegible] habetur [illegible] dolo, vel neg[illegible]
[illegible] debent; [illegible] similiter [illegible] rescripti [illegible] valere [illegible] factum [illegible]
impetrans [illegible] nulla [illegible] alter
[illegible] =

n° 4. [illegible] litteris Apostolicis [illegible]
[illegible] renuntiatio simoniaca [illegible] Simoniac
[illegible] spiritualibus [illegible] talis [illegible] invalida; [illegible]
Simoniaca [illegible] Simoniam [illegible] aliquid temporale [illegible] spirituali [illegible]
Simonia ab omnibus [illegible] tradita, [illegible] aliquid temporale [illegible]
[illegible] renuntiatio litterarum Apostolicarum; [illegible] renuntiatio [illegible] valere =

n° 5. Denique [illegible] adversus [illegible] impetrans litteras Apostolicas, [illegible]
renuntiante, [illegible] tenere [illegible] renuntiationem facere [illegible]
[illegible] renuntiationes [illegible] ut licet velit [illegible]
[illegible] audietur, propterea [illegible] renuntiavit [illegible] facere [illegible]
[illegible] voluntatis [illegible] necessitatis [illegible]
[illegible] posteriores litteras [illegible] =

n° 6. Quibus dubitationibus [illegible] impetrans priores litteras
ac beneficium [illegible] renuntiant, [illegible] prioribus [illegible]
[illegible] faciat excludendus [illegible] quamlibet [illegible] decissionis [illegible]
nulla [illegible] veniant, [illegible]
[illegible] impetrator [illegible] renuntiare litteris Apostolicis
[illegible] beneficij [illegible] ut [illegible]
[illegible] Clericis [illegible] nec [illegible]
[illegible] licentia [illegible] explicare [illegible]
[illegible] de loco 37. 7. q. 1. [illegible] impetrat [illegible] quia [illegible]
[illegible] beneficium [illegible] illud accepit, [illegible] absque [illegible]
[illegible] Barbosa [illegible]
frequentius [illegible] aliquam [illegible]
[illegible] Clericus [illegible]
[illegible] litterarum Apostolicarum [illegible] voluntate [illegible]
[illegible] =

n° 7. [illegible] intelligi, [illegible]
[illegible] omitti solent. [illegible]

[illegible]

cap. [illegible] decretalis 27. [illegible] de rescriptis, aut [illegible] aliud [illegible] habent animum [illegible] in diversis [illegible] trahere, cap. ad aures 36. [illegible] de rescriptis, cap. Olim 12. [illegible] de rescript. [illegible] 27 dicitur surreptio, quae omittit veritatem, [illegible] mendacibus [illegible] rescripti [illegible] ut [illegible] cap. ex tenore 37. de rescriptis, cap. ex litteris 6. [illegible] cap. 6. [illegible] 86. [illegible] produnt [illegible] de rescriptis [illegible] 50 Gregorius [illegible] obrepere, et subrepere; [illegible] 20 [illegible] Cornelius de falsis, et hinc [illegible] sigillum [illegible] obtinere [illegible] 10 [illegible] l. libertus [illegible] ff. de [illegible] qui [illegible] adversarii [illegible] principali [illegible] 9. [illegible] quinquagesimo [illegible] mandati; vel quinquaginta alterius [illegible] ff. de [illegible] 8. §. 1. ff. de [illegible] Vel [illegible] 29. [illegible] Cornelius de falsis, [illegible] H. [illegible] subreptis [illegible] circumscribit [illegible] ex rescripto.

[illegible] Denique [illegible] rescripti [illegible] dolus tacita veritate, vel expressa falsitate rescriptum impetravit, [illegible] simplicitate, vel ignorantia falsa [illegible] adiecit. [illegible] rescriptum [illegible] impetratum nullius momenti, [illegible] impetratoris modo [illegible] ut [illegible] [illegible] dolus, [illegible] simplicitate, vel ignorantia falsi [illegible] adiecta [illegible] cap. [illegible] de rescriptis in 6. cap. [illegible] 86. cap. [illegible] [illegible] vel utilitas publica; nec [illegible] ignorantia [illegible] cum [illegible] ignorantia [illegible] de [illegible] de rescriptis [illegible] permutat. [illegible] vocatur, l. 6. §. [illegible] ad Sillanianum, l. 1. §. ult. [illegible] infamia [illegible] plurimis aliis, quos eleganter et diligenter cumulat Tiraquellus de poenis temperandis causa 21. Menochius [illegible] cap. 19.

[illegible] 9. [illegible] veritas [illegible] impetrator litterarum [illegible] secundarum admitti [illegible] beneficii [illegible] taciturnitate [illegible] rescriptum [illegible] sed [illegible] recedere [illegible] litteras, [illegible] 31. [illegible] dolo vel mendacio [illegible] litteras [illegible] rescriptum impetrationis [illegible] tacito [illegible] cap. [illegible] 17. [illegible] [illegible] cap. [illegible] 6. [illegible] [illegible] cap. 2. [illegible] translat. [illegible] [illegible] obreptitie [illegible] beneficii [illegible] [illegible] mandati. Nec [illegible] debet [illegible] l. [illegible] 44. [illegible] l. 1. [illegible] l. ult. [illegible] 4. [illegible] Gracianus [illegible] 200. [illegible] 3. [illegible] 18. [illegible] 310. [illegible] 6. [illegible] 20 [illegible] Cornelius [illegible] Ordinariae [illegible] 2. [illegible] Farinacius de falsis q. [illegible] 126. [illegible] Honorius [illegible] impetravit [illegible] obreptionis [illegible] quasi.

[illegible] 10 [illegible] [illegible] [illegible]

[illegible] uterque [illegible] ob [illegible] et [illegible]
[illegible] superiori [illegible] Valet [illegible] menti[o] [illegible] personis [illegible]
[illegible] rescripto mentio [illegible] hoc [illegible]
quidolo, vel negligentia [illegible] rescripti [illegible] valet [illegible]
[illegible] facta, [illegible] imperialis aliquis [illegible]
[illegible] Baldus [illegible] Felinus [illegible]

nº 11. Nec magis obstat [illegible] litterarum Apostolicarum [illegible]
[illegible] Simonia [illegible] Varias [illegible] Simoni[a] [illegible]
[illegible] litteris Apostolicis [illegible] beneficiali [illegible]
[illegible] benef[icia] [illegible]
[illegible] spiritualibus [illegible] Valere [illegible]
[illegible] Barbosa [illegible] nº [illegible] =

nº 12. Denique [illegible] videtur [illegible]
[illegible] litteris [illegible]
[illegible] litteris [illegible]
[illegible] habere [illegible]
[illegible] =

nº 13. Ex quo [illegible]
[illegible] Valere [illegible]
[illegible] valere [illegible] rescripti [illegible]
[illegible] Felinus [illegible]
[illegible] rescripti [illegible] Valere [illegible]
[illegible] rescripti [illegible]
[illegible] rescripti [illegible]
[illegible] =

nº 14. [illegible] litteris [illegible]
[illegible] rescripti [illegible]
[illegible] valid[us] [illegible]
[illegible] litteris [illegible]
[illegible] rescripti [illegible]
[illegible] nulla [illegible]

Denique [illegible] ... facti [illegible] ... rescripti ... [illegible]

... exceptiones ... [illegible] ... Bartolus ... Menochius de arbitrar. ... [illegible]

... [illegible] ... quaerere ... [illegible] ... Glossa ... [illegible] ... l. si quis 29. ff. ... [illegible]

... l. 1. C. de legibus ... publicis ... [illegible] ... litteris ... hoc ... [illegible] ... rescripta ... [illegible]

... veritatem ... [illegible] ... C. de diversis rescriptis ... [illegible] ... rescriptum ... subreptitia ... [illegible]

... l. si quis 37. ff. de ... l. necessario 8. § ... de periculo et commodo rei venditae ... [illegible]

... adeo ut ... [illegible] ... verba ... [illegible] ... l. ... 27. ... ff. de dolo, l. 3. § ultimo ... l. ... 37. ... [illegible]

... ff. de ... l. ... cap. 16. § ... Posteriores ... exceptionibus ... [illegible]

... 96. ff. de V. O. l. ... § ... Cujacius in l. ... [illegible]

... ff. ... Faber ... Richardus ... actionum ... [illegible]

... exemplo ... admittamus ... [illegible]

... exceptionem ... [illegible] ... rescripto ... [illegible]

... [illegible] ... [illegible] ... =

Scheda 5.^a 10

Ad Cap. Cum Consuetudinis. 9. } de Consuetudine.
Ad Cap. ex parte 10 —— }

Succedit nunc [illegible] Honorij 3.[i] decisio, quæ extat in cap. [illegible] de Consuetud[ine], in qua proponitur Canonicos [illegible] eccl[esi]æ [illegible] quasdam [illegible] et [illegible] alliasque plures de nouo fecisse, quæritur, et dubitatur an [illegible] Cassa sit faciendum, et [illegible] Canonicos [illegible] nouas [illegible] aut consuetud[ines] inducere, adeoque fortasse [illegible] Cardinales [illegible] introduct[ionem] [illegible] semper [illegible] ut [illegible] ratione decidendi ad hunc [illegible] —

n. 2. Ex qua [illegible] quod [illegible] Capitulum [illegible] Statuta, seu consuetud[ines] nouas facere, vel antiquas immutare [illegible] Licet [illegible] Felinus, [illegible] Joannes Andreas [illegible] de Consuetud[ine] n. 40 [illegible] Felinus, et Decius [illegible] de Constitutionibus n. 8. Dominicus Franciscus, Geminianus, et Ancaranus in cap. [illegible] Moneta de [illegible] tributionibus quotidianis [illegible] 36. sect. 1. n. 3. et 6. Cerola in praxi episcopali [illegible] Capitulum [illegible] Barbosa [illegible] —

n. 3. [illegible] Capitulum [illegible] aliquas nouas [illegible] Statuta facere [illegible] Canonicos [illegible] Capituli [illegible] Capitulum eligat Canonicos [illegible] Tuscia [illegible] Cathedralibus [illegible] Capitulum [illegible] Capitulum [illegible] Capitulum [illegible] —

n. 4. [illegible] Catholica [illegible] privatis [illegible] Statuta facere [illegible] Capitulum [illegible] Capituli [illegible] Capitulum [illegible] inducere. —

n. 5. Denique [illegible] decisio [illegible] Statuta [illegible] Capitulo [illegible] Capitulum [illegible] Statuta aut consuetud[ines] [illegible] —

n. 6. [illegible] Canonicos [illegible]

[illegible]

ff. de legibus S.C. [illegible]. Cum itaque Episcopi auth[oritas] et [illegible] requiratur in ex post facto, [illegible] ad hoc ut aliqua constitutio aut de novo fiat, aut immutetur, compertum est; nam episcopus et Canonici [illegible] Corpus et collegium sunt, ita ut ipse sit Caput, et ipsi membra, cap. novit 4. de his quae fiunt a praelato sine consensu capituli [illegible] magna daretur deformitas, si membra hoc est Canonici absque sui capitis auth[oritate], hoc est, sine Episcopo [illegible] vellent de novo, aut immutare intenderent, quemadmodum episcopus absque consensu Capituli requisiti [illegible] tractare [illegible] post, cap. [illegible] cap. Cum nescitur 6. de his quae fiunt a praelatis sine consensu Capituli [illegible] communiter reputantes ad text. in cap. 1. de rebus eccl. alienandis vel non, ita similiter Capitulum [illegible] praeter [illegible] novum statutum facere, aut antiquum immutare, aut consuetudines approbatas annullare, quia adeo verum est certum hanc episcopi auth[oritatem] a priori debere intervenire, alioquin si ex post facto adest nullum erit gestum, nec poterit ratificari ex [illegible] text. in l. [illegible] ab initio ff. [illegible] cap. dudum 28. [illegible] cap. dudum de rebus eccl. [illegible] melius [illegible] cedendi [illegible] tradit [illegible] [illegible] Panormit. [illegible] n. 23. =

n.o 7. [illegible] adversus [illegible] text. adduct[um] [illegible] deducta ex cap. [illegible] Vulteranae de elect., quo probatur consuetudinem aliquid inducere posse [illegible] Canonicos [illegible] praelato, quae directe [illegible] statutis [illegible] [illegible] auth[oritate], [illegible] dicendum [illegible] quod licet [illegible] videre ut alibi [illegible] [illegible] solebant, [illegible] tractent et examinent [illegible] expediunt, [illegible] expectet [illegible] Collationem [illegible] superioribus [illegible] inferioribus eccl., ut colligere licet ex [illegible] Canonum in Decretales [illegible] 8. [illegible] [illegible] dicendum putamus ex consuetudine [illegible] inducere [illegible] ut [illegible] ad solum Capitulum [illegible], et e [illegible] ut quod quae ad solum episcopum pertineat [illegible] cap. Cum nescitur de his quae fiunt a praelatis, cap. 8. de Consuetudine [illegible], nec [illegible] hoc [illegible] debet [illegible] speciale ad [illegible] praelatis [illegible] inferiorum, hoc [illegible] tare [illegible] text. [illegible] de [illegible] [illegible] consuetudine [illegible] debet [illegible] n. 9. [illegible] intelligi [illegible] Canonicos, nec [illegible] intelligitur [illegible] auth[oritate] [illegible] consuetudine [illegible] generalis [illegible] aliqua [illegible], [illegible] praelato suo novum statutum facere, [illegible] consuetudo [illegible] obstante [illegible] id [illegible], [illegible] rationabilis [illegible] hanc [illegible] docet [illegible] [illegible] cap. Cum [illegible] n. 2. [illegible] n. 3.

n.o 8. Difficilius explicatu habet [illegible] difficultas orta ex decisione text. in d. cap. Catholica 8. 11. [illegible] ex [illegible] videbatur cuilibet eccl. capitulo suo [illegible] facere statutum novum et veterem mutare [illegible] [illegible] statuitur [illegible] [illegible] et hanc difficultatem dissolvat [illegible] adhibet [illegible] Capitulum [illegible] familiaris [illegible] tractat, [illegible] ita ut [illegible] praelato [illegible] statuere [illegible] text. in cap. Catholica 11. [illegible] obstante [illegible] novum statutum facere [illegible] [illegible] [illegible] [illegible] dicere [illegible] [illegible] in cap. Catholica [illegible] text. [illegible] Decisiones [illegible] [illegible] ecclesiae [illegible] aut generalis aut particularis [illegible] [illegible] quandoque gubernari [illegible] constitutionibus, [illegible] de praelati auth[oritate] [illegible] [illegible] [illegible], ita ut quandocumque [illegible] [illegible] [illegible] facta [illegible] erunt invalida. =

n.o 9. Denique non obstat posterior dubitandi ratio [illegible] deduximus ex text. in cap. Cum dilectus hoc [illegible] quo probatur consuetudinem inducere posse ut extraneus [illegible] eccl. eligatur [illegible] statutum [illegible] novum [illegible] Canonicos [illegible] [illegible] [illegible] [illegible] [illegible] debeant [illegible] eligere [illegible] [illegible] [illegible] [illegible] ut extra [illegible] eligi soleat: [illegible] similiter hoc inducere [illegible] obstante [illegible] consuetudine in cap. [illegible] [illegible] aliqua [illegible] [illegible] videatur [illegible] derogare [illegible] [illegible] hoc [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] contrario [illegible] cap. [illegible] nova [illegible] aut veteres approbatas consuetudines [illegible] praelato [illegible] [illegible] [illegible] Felino 8. n.o 6. =

Expiuvy

n° 10 Ex [illegible] episcopi canonicis [illegible] [illegible] interdicendi [illegible] Pontificii iuris [illegible] [illegible] [illegible] cap. cum inter, [illegible] [illegible] [illegible] episcopi [illegible] [illegible]; [illegible] [illegible] dicti canonici generaliter interdictum [illegible] [illegible] [illegible] in Civitate [illegible] [illegible] [illegible] [illegible] Verbum [illegible], aperte [illegible] [illegible] [illegible] capituli, [illegible] Canonicos interdictum [illegible] [illegible] [illegible], et illud [illegible] observandum ex Pontificio [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible], et quidem reservatum episcopo [illegible] tamquam [illegible] [illegible]; [illegible] [illegible] canonici interdicti [illegible] [illegible] [illegible] habent potestatem, [illegible] [illegible] [illegible] illis [illegible] [illegible] [illegible] novum [illegible] facere, aut [illegible] iam [illegible] [illegible] [illegible] [illegible] [illegible] nulli [illegible] [illegible] cap. cum inter, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Capituli [illegible] [illegible] que [illegible] [illegible], ut [illegible] [illegible] a Felino, Bald. et [illegible] [illegible] tamen [illegible] [illegible] difficultatem [illegible] [illegible] breviter [illegible] iure Ordinario [illegible] habere potestatem ferendi interdictum, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Capitulo tradit [illegible] [illegible] in cap. cum inter [illegible] Coll. [illegible] [illegible] [illegible] [illegible] § 2. n. 6. Suarez [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]; nec [illegible] [illegible] hoc extat [illegible]. Quippe [illegible] [illegible] ordinarie [illegible] [illegible] [illegible] [illegible] [illegible], et [illegible] [illegible]. Quo [illegible] [illegible] dicimus [illegible] in cap. cum inter [illegible] [illegible] [illegible] [illegible] interdictum [illegible] [illegible] [illegible] [illegible] [illegible], [illegible] [illegible] [illegible], aut [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible], [illegible] alia quaelibet facere, [illegible] [illegible] [illegible], et [illegible] probari [illegible] in cap. [illegible] Canonici, [illegible] [illegible] quamvis [illegible] [illegible] [illegible] [illegible] [illegible] [illegible], ubi [illegible] [illegible] [illegible] [illegible], et forma, ac [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] interdicto ferendo [illegible] Suarez et [illegible], [illegible] [illegible] [illegible] [illegible] rigore [illegible] [illegible] [illegible] [illegible] [illegible] novum facere, [illegible] [illegible], aut vetere iam [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] aut ex privilegio [illegible] interdictum [illegible] ferre [illegible] [illegible] generaliter illud [illegible] [illegible] ferat [illegible] [illegible] episcoporum, qui illud generaliter et qualitercumque voluerit [illegible] [illegible] [illegible] [illegible] cap. cum inter, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible].

n° 11. Verum adhuc [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] absolute [illegible] [illegible] [illegible], ut illi [illegible] exercere [illegible] [illegible] Capituli. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] hoc [illegible] Capituli [illegible]; vel [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] colligitur [illegible] [illegible] [illegible] [illegible] [illegible] interdictum [illegible], quibus [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible], quae [illegible] Canonicos, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]; nam interdictum ferre [illegible] [illegible] [illegible], quam [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] generaliter [illegible] interdicto, [illegible] [illegible] illo [illegible] Clericos, vel [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Clericorum [illegible] [illegible] [illegible] [illegible], [illegible] [illegible] colligitur [illegible] [illegible]; nam [illegible] colligitur aperte [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Capituli [illegible] ad hoc [illegible] interdictum [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible], atque [illegible] [illegible] Capituli interdictum [illegible] [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible].

n° 12 [illegible] ex [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Decreto relatum cap. [illegible] § [illegible]. [illegible] [illegible] n. 6. [illegible] [illegible] [illegible] [illegible] Canonicos posse facere Statuta absque [illegible] [illegible] cum [illegible] dicatur Canonicos [illegible], [illegible] facere [illegible] [illegible] [illegible] [illegible] [illegible] posse statuere, quam difficultatem dissolvit [illegible] [illegible] § [illegible]. [illegible] statuit discrimen [illegible] [illegible] [illegible], quo [illegible] [illegible] facere Statuta [illegible] generalia [illegible] Statum attingant, [illegible] quo agit de rebus privatis, et [illegible] [illegible] [illegible] [illegible] negotia statuere; [illegible] dicamus [illegible] posse Capitulum [illegible] [illegible] Statuta facere [illegible] decidendi [illegible] [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Canonicos Statuta [illegible] [illegible] posse, [illegible] [illegible] [illegible] abrogari [illegible] [illegible] [illegible] [illegible], [illegible] [illegible] [illegible] Statum [illegible]. [illegible] dicimus Capitulum posse Statuta facere [illegible] [illegible] [illegible] [illegible], qualia sunt [illegible] Canonici [illegible] [illegible] [illegible] [illegible] Capituli, [illegible]

Vel eod certo modo citentur quamquam, vel alia plura huiusmodi, et tunc c[illegible] hic minima [illegible] intelligatur [illegible] in d. cap. [illegible] §. fin. de V. S. nec sine [illegible] Capitulis [illegible] [illegible] c. minima statuere [illegible] [illegible] prelato, nam quolibet licitus Collegium potest statuere ea quae ad se pertinent, l. 1. §. 2 ff. quod cuiusque universitatis, cap. ex litteris de constit. V. minimum in d. cap. statuta, aut si [illegible] Canonicos [illegible] [illegible] suo [illegible] fieri posse, cum dicit c. minora, quorum administratio et executio proprie ad ipsos spectat; ita docet [illegible] [illegible] [illegible] amplectens, Archidiaconus in d. cap. §. fin. de V. S. [illegible]

n. 18. Adversus quam solutionem ex diametro videtur obstare [illegible] difficultas [illegible] M. a. constitutionibus [illegible] [illegible] quae aperte [illegible] Canonicos [illegible] interveniente sui prelati authoritate [illegible] posse facere statuta, si quidem [illegible] certum numerum Canonicorum in illa [illegible] [illegible] quodque [illegible] restringi quod [illegible], et [illegible] statutum [illegible] minima [illegible] [illegible] maiora [illegible] dispositio [illegible] [illegible] qui [illegible] [illegible] [illegible] tractat, [illegible] minima [illegible], cum [illegible] [illegible] Casu hoc [illegible] quod [illegible] [illegible] Cap. hoc [illegible] posse [illegible] [illegible] [illegible]. Sed [illegible] breviter [illegible] [illegible] ep. [illegible] [illegible] placuerit ad melius, [illegible] formal [illegible] Capitulo [illegible]; [illegible] aut alterius in illa [illegible] adfuerit, [illegible] statuta facta a Capitulo valida [illegible] tanquam [illegible] firmata a superiore, [illegible] quam [illegible] adfuit [illegible] [illegible] auth. [illegible], quod [illegible] [illegible] perpendatur [illegible]

Plura allia in [illegible] difficultate [illegible] sunt, quae [illegible] [illegible] [illegible], [illegible] [illegible], [illegible] potius remittimus quam omittimus, [illegible] [illegible] [illegible] cap. [illegible] n. 20. [illegible]

Solut. [illegible] intelligendi [illegible] [illegible] difficiles [illegible] cap. [illegible] cap. [illegible] accepimus 8. cap. [illegible] 22. [illegible] [illegible] ex quibus [illegible] Capitulum [illegible] interveniente [illegible] auth. [illegible] facere. [illegible] in illis aut [illegible] erat [illegible] aut [illegible] erat inter [illegible] [illegible], [illegible] adfuit Pontificia [illegible], ita docet [illegible]

n. 24. Deinde [illegible] [illegible] 24. [illegible] [illegible], ubi [illegible] Capitulum [illegible] [illegible] [illegible], quia [illegible], ut nullus ex Canonicis qui abesset posset percipere fructus [illegible], fortasse [illegible] quod quidam [illegible] erat in [illegible] Summi Pontificis, [illegible] [illegible] per hoc [illegible] [illegible] denegabant Canonici [illegible] [illegible] [illegible], quaeritur quid in hoc [illegible] [illegible] [illegible] Pontifex [illegible] Canonicus, qui [illegible] familiaris [illegible] posse [illegible] [illegible] fructus exigere et percipere non obstante Capituli statuto; [illegible] Canonicus [illegible] Pontifex [illegible] [illegible] [illegible] fructus [illegible], et hoc [illegible] ex [illegible] statuti a Capitulo [illegible] [illegible], [illegible] recte [illegible] capitulum [illegible] facere [illegible] deficiente sui [illegible] [illegible] [illegible] aperte [illegible]; et quod hoc statutum [illegible] [illegible] facta fuisset a Cap. [illegible] [illegible] Huius [illegible] [illegible] [illegible] ut [illegible] cap. [illegible] 6. de [illegible] ex n. 36 [illegible] [illegible] solutum [illegible]. Alii [illegible] hoc statutum [illegible] [illegible], [illegible] adfuit [illegible] auth. [illegible] [illegible] nullus [illegible] ex [illegible] [illegible]. [illegible] solutionibus [illegible] [illegible] [illegible] placet, quam [illegible] in [illegible] n. 38. refert, dicens [illegible] [illegible] author, quod licet [illegible] Canonici [illegible] [illegible] statuere possint [illegible] fructus [illegible] [illegible], ex [illegible] [illegible], qui [illegible] [illegible] [illegible] final. [illegible] [illegible] [illegible] [illegible] [illegible] decernunt, ut Clerici [illegible] [illegible] facientes [illegible] [illegible], tunc tale statutum validum est absque [illegible] [illegible], [illegible] [illegible] facile [illegible], l. [illegible] §. [illegible] ff. [illegible] [illegible] dictum statutum [illegible] [illegible] [illegible] cultus divini [illegible] ad [illegible] Canonicos [illegible] [illegible] reservatis [illegible] cap. [illegible] de [illegible] in residentibus [illegible] [illegible] [illegible] [illegible] n. 9. [illegible] [illegible], at [illegible] [illegible] [illegible] solutionis [illegible], [illegible] in nulla [illegible] [illegible] ad [illegible] [illegible] [illegible] [illegible] [illegible], ut ad alia [illegible] [illegible]. =

n. 1.

In hoc textu duplex refertur [illegible] consuetudo a nro Rē Honorio 3° Prima illa est, ut maritus de uxorisque iure dispositi bona uxoris sua alienare posset, eo casu quo ipsa ad inopiam venerit, quacumque culpa sua quod tale acciderit. 2ª ut uxor dimidiam [illegible] bonorum mariti sui lucraretur [illegible] si ipsa supervixerit, [illegible] hoc [illegible]. Utraque [illegible] tamquam bonis moribus repugnans et [illegible] peccatum inducens [illegible] de causa reprobatur, [illegible] nostri [illegible] in propriis iudicanda sequentes antiquorum vestigia [illegible] tanta [illegible] fuerit: [illegible] illius [illegible] generales [illegible] quae ex hoc textu deducitur, proponimus. =

n. 2.

De [illegible] ita se habet; non valet consuetudo per quam aliquis inducitur ad peccandum, nec quae iuri positivo adversatur, nisi sit rationabilis [illegible] probat hanc [illegible] in cap. 2. cap. [illegible] inter 5. cap. cum olim 8. cap. cum dilectus 8, cap. finali hoc eodem tit. de consuetud., cap. [illegible] sublimia de [illegible] cap. [illegible] 8. cap. [illegible] 9. de simonia, cap. cum haberet 5. de eo qui duxit uxorem quam [illegible] cap. [illegible] debet 8. de consanguinit. et affinit., cap. cum dilectus 4° de offic. Archidiaconi, cap. Clericis 8. de iudic. 17. c. Ceterum [illegible] de donationibus cap. [illegible] 8. de regul. iudicat. cap. ex frequentibus 9. de instit. cap. [illegible] 27. de elect. cap. Servis [illegible] cap. [illegible] de testibus, cap. 1. [illegible] cap. 2. 11. [illegible] cap. 4. [illegible] in ciuili extat in l. de quibus 32 [illegible] interpretat. 37. ff. de legibus, [illegible] 13. [illegible] glos. ff. [illegible] est [illegible] 4. l. 5. [illegible] l. 9. [illegible] explicant hanc [illegible] Panormitanus, Felinus, Joannes Andream [illegible] Abbatem, [illegible] repetentes Cabb. [illegible] var. cap. [illegible] 8. Azor 1. p. instit. moral. [illegible] cap. 17. q. 2. Suares 1° to. de relig. [illegible] 1. cap. 5. n. 22. Boerius [illegible] 46. Menochius de [illegible] [illegible] cap. 17. q. 2. Suarez [illegible] mille que alii, quos de more [illegible] refert, [illegible] Barb. in [illegible] ad [illegible] cap. [illegible] [illegible] 99. [illegible] mille que alii, quos de more [illegible] refert.

n. 3.

Verum licet [illegible] totis viribus tot quae authoritatibus confirmata [illegible] [illegible] difficilis redditur [illegible] dubitandi rationibus. 1ª [illegible] consuetudo illius [illegible] posset iudicare iuri positivo dummodo sit rationabilis, [illegible] cap. finali hoc eodem tit. de l. de quibus ff. de legibus, l. sine herede 32. §. Lucius Titius ff. de admin. [illegible] tutorum, l. [illegible] legato 7. §. finali [illegible] ff. de [illegible], l. 1. C. de annonis et tributis lib. 10 l. [illegible] 19. C. de agricolis et censitis, plura alia [illegible] quam [illegible] consuetudo [illegible] lex, [illegible] de quibus, [illegible] l. 2. C. quae sit longa consuetudo, [illegible] §. [illegible] ff. de sepulcro violato [illegible] cum aliis pluribus aliis, quos refert [illegible] de [illegible] in [illegible] finali de consuetud. [illegible] 4. [illegible] usque ad 36. ubi infinitos proponit casus in quibus consuetudo [illegible] obtinet [illegible] quod liquido [illegible] facit, tamquam faciens [illegible] peccat, puniturque [illegible] 27 [illegible] gravitate [illegible] cum [illegible] [illegible] pluribus, quos tradunt relati a Cenedo in [illegible] ad [illegible] 24. igitur [illegible] consuetudo tantum sit authoritate [illegible] [illegible] Valida [illegible] possit [illegible] auferre, [illegible] illud venire peccatum sit, videtur dicendum consuetudinem quae ad peccandum inducat Validam [illegible] [illegible] iure [illegible] iudicanda. =

n. 4.

Rursus quaerimus dicta iuri positivo [illegible] consuetudinem posse derogari [illegible] [illegible] rationabilis [illegible], obstat [illegible] consideratio; nam lex [illegible] consuetud. abrogatur, aut est iniqua aut iusta, si iniqua est [illegible] [illegible] abrogandam; si iusta est [illegible] per consuetudinem abrogari [illegible] dici lex, cap. erit autem lex 4. d. [illegible] nec [illegible] consuetudo ad legem abrogandam [illegible] consuetudo legem abrogare, [illegible] quinimo [illegible] consuetudo erit iniqua, et irrationabilis, [illegible] numquam potest consuetudo legem abrogare, [illegible] [illegible] est bonum, alterum malum iudicabitur, cap. Hospitio [illegible] 17. 32. [illegible] 33. [illegible] [illegible] Lyalibus [illegible] 19. [illegible] plures alios referens [illegible] §. 7. [illegible] [illegible] rationabilis legem posse auferri, [illegible] rationabiliter [illegible] nos [illegible] consuetudinem rationabilem legem posse auferri [illegible] =

n. 5.

Denique [illegible] plura utriusque iuris [illegible] testimonia [illegible] [illegible] probant consuetudinem derogare legi positivae, quinimo talis consuetudo [illegible] de [illegible] canonica [illegible] in cap. [illegible] [illegible] de offic. archidiaconi, cap. 3. cap. [illegible] Venerabilis hoc eodem tit. c. [illegible] de [illegible] [illegible] [illegible] plures alii adducti [illegible] arg. [illegible] [illegible] 1. ff. de usuris, [illegible] de precario [illegible] l. [illegible] iudices C. de decu[rionibus]. l. [illegible] §. [illegible] [illegible] igitur consuetudo [illegible] derogare iuri positivo [illegible] illud [illegible] ponitur. =

[illegible] rationabilis [illegible]

n. 6.

[illegible] dubitationibus non obstantibus dicendum est verissimam esse [illegible] decisionem [illegible] consuetudo quae ad peccandum inducat [illegible] quae iuri positivo adversatur, nisi sit rationabilis, et [illegible] [illegible] demonstrare possimus [illegible] [illegible] Varie ac diversimode ab [illegible] definiri solere [illegible] consuetudo [illegible] tradunt Bartolus in rep. ad l. [illegible] de quibus n. 3. ff. de legibus [illegible] [illegible] Sebastianus de Medicis de legibus [illegible] 81. [illegible] 3° tomo, tit. de consuetud. [illegible] 3. [illegible] Azor in summa [illegible] 2. p. q. [illegible] n. 1. [illegible] de definitionibus [illegible] cap. 8. [illegible] de [illegible] Consuetudo [illegible] longa consuetudo, plures quae alii [illegible] ex [illegible] quos [illegible] refert. [illegible] [illegible] placet [illegible] ut consuetudo sit ius quoddam tacite [illegible] ex frequentia longaque [illegible] [illegible] diuturnis moribus inveteratis, [illegible] servatur; [illegible] definito [illegible] [illegible] invenitur, [illegible] definito, [illegible] l. 2. §. [illegible] ff. de [illegible], l. [illegible] 31. ff. [illegible] [illegible] la 2 §. [illegible] ff. de auro [illegible] legato, [illegible] genere [illegible] quoddam [illegible] [illegible] genus [illegible] explicant [illegible] [illegible] q. 1. art. 1. [illegible] de auth. [illegible] cap. [illegible] [illegible] Vera

n. V. [illegible]

… tacito consensu populi inductus ad [illegible] expressi, aut substantiale consuetudinis [illegible] in d. l. de quibus ff. de leg. § [illegible] scripto instit. de iure nat. gent. et civil. alia denique [illegible] ponuntur ad differentiam alterius taciti populi consensus qui in aliis rebus adest, cum in consuetudine, quia ex frequentia eorundem actuum popularium induci debet. = Consuetudo … [illegible] quae pro lege servatur [illegible] ad [illegible] excludantur mores, usus, vel consuetudines imperfectae, [illegible]

n.º 7.

Rursus sciendum est quadrupliciter dividi solere consuetudines. Alia est valentissima, alia generalis, alia specialis, alia denique specialissima, ut tradit [illegible] ex antiquioribus [illegible] [illegible] de consuetudine repetentes, Sebastianus de Medicis de legibus 2 p. q. 4. [illegible] oportet [illegible] valentissima consuetudo est illa, quae inter omnes Catholicos, exemplicando, quae inducat ad orandum versus orientem [illegible] [illegible] ibi cum orientem versus nos orare litterarum forma docuit [illegible] Cuius consuetudinis plures [illegible] Archidiaconus, et Turrecremata [illegible] assignant Durandus in rationali lib. 1. q. 1. n.º 14. Cassaneus in Catalogo gloriae mundi 12 p. consideratione 18. Lambertinus de iure patronatus lib. 1.º q. 3. art. 9. [illegible] expectare videtur singularis [illegible] Plinii iunioris ad Traianum lib. 6. quam [illegible] sermone convertit [illegible] lib. 1. Histor. Pontificalis cap. 7. in vita Anacleti Pontificis, ubi inquit morem fuisse Christianis versus orientem quotidie mane orare. Generalis consuetudo est, quae servatur in una provincia, vel in Archiepiscopatu, vel Patriarcatu, vel in uno regno, de qua loquuntur [illegible] in cap. cum [illegible] 31. de elect. cap. ex tuarum 5. de auctor. et usu pallii, cap. super [illegible] de [illegible] cap. de [illegible] in l. [illegible] plurium 50, § finali ff. de legat. 1.º l. semper in stipulationibus 34. ff. de R. I. = Specialis consuetudo dicitur quae pertinet ad unam civitatem, vel oppidum, de qua intelliguntur [illegible] in cap. [illegible] 29. de iureiurando, cum Raimundus lib. [illegible] in d. l. si vendatur, § si constat ff. [illegible] l. [illegible] 32. § [illegible] ff. de administrat. tutor. = Denique specialissima consuetudo iudicatur, quae aspicit unicam [illegible], vel monasterium, vel unam familiam, ut [illegible] ad d. l. si servum plurium § finali, [illegible] cap. [illegible]

de qua noster [illegible]

cap. [illegible] proprietatibus, Docent [illegible] Albericus in d. l. de quibus [illegible] 10, plures qui [illegible] repetentes, Cassaneus in proemio consuetudinum Burgundiae super [illegible] n.º 2. Sebastianus de Medicis [illegible] 24. [illegible] alias consuetudines [illegible] quae [illegible] tradunt. =

n.º 8.

Quinto constituimus in consuetudine dari debere causas materialem, formalem, efficientem, et finalem, quemadmodum in ceteris rebus considerantur, ut tradunt Logici et nostri [illegible] Decretalistae [illegible] cap. [illegible] 27. q. 5. Materialis causa consuetudinis est ipsi actus, vel frequentia facta, ipsa quae [illegible] vel controversiae, [illegible] ad talem consuetudinem inducendam sufficit dum sint duo, ut tradit [illegible] in d. l. [illegible] ff. de legib. [illegible] inveterata [illegible] receptus [illegible] Bartholus in d. l. 2. C. quae sit longa consuetudo n.º 12 in fine et [illegible] [illegible] de [illegible] loquuntur, de his qui exercent maximi momenti sunt, qui ut [illegible] quippe in [illegible] populi, [illegible] apparet [illegible] vel [illegible] actibus, qui [illegible] specialiter consideratur in consuetudine inducenda, et haec qualiter sint ex arbitrio, l. 1 ff. [illegible] deliberand. [illegible] consuetudo inducatur in his quae frequenter in populo accidere solent in populo, [illegible] duo, nec [illegible] actus [illegible] [illegible] posset [illegible] populi [illegible] maxime si sint [illegible] momenti [illegible] populus [illegible] [illegible] elegantem [illegible] Molina de Hispanorum primogeniis lib. 2. cap. 6. n.º 28. [illegible] lib. 5. tit. 2 p. [illegible] sufficiant quod dicti actus sive sint iudiciales, sive extraiudiciales [illegible] [illegible] possunt sufficere [illegible] habeat tractum successivum [illegible] de probandis lib. 6. [illegible] Panormitanus in d. cap. [illegible] [illegible] n.º 47. [illegible] in d. l. de quibus n.º 46. ubi plura [illegible] =

n.º 9.

de [illegible] in la inducen[illegible] [illegible]

Causa formalis in consuetudine qualis sit valde [illegible] [illegible] apud Baldum in d. l. de quibus, n.º 37. et 64, et Butrio in d. cap. finali [illegible] n.º 12 [illegible] est causa formalis, [illegible] [illegible] [illegible] probanda consuetudine desiderat, ut sit rationabilis, et legitime prescripta, quae [illegible] temporis debeat [illegible] [illegible] inter [illegible] dubitari, [illegible] inter [illegible] Canonistas, et Cesareos proponere; [illegible] que quadraginta, quandoque 30, viginti, decem, anni, [illegible] [illegible] consuetudo sive [illegible], sive [illegible] decem anni ad [illegible] sufficiant, illam [illegible] [illegible] tempus requiratur ad inducendam consuetudinem, [illegible] dicatur longam, vel [illegible] inveteratam, aut longaevam, [illegible] [illegible] [illegible] relinquendum esse arbitrio iudicis [illegible] quoties cumque ad aliquid faciendum tempus [illegible] requiritur et non determinatur, [illegible] annus debeat intelligi [illegible] arbitrarium, [illegible] ait Praetor ff. de deliberand. l. [illegible] 38. § [illegible] cavit ff. de V. O. c. finali de transactionibus, plura [illegible] refert [illegible] [illegible] de dolo, et [illegible] tradit [illegible] consuetudinis [illegible] § 10. n.º 9 idem [illegible] Var. cap. 16. n.º 1.º Covarruvias lib. 1 [illegible] cap. [illegible] n.º 6. Menochius de arbitrariis [illegible] 2 Cent. 1. cap. 33. et 55. =

n.º 10

Requiritur ad consuetudinem inducendam, ut [illegible] [illegible] [illegible] ut [illegible] data [illegible] cum similibus ff. de legib. qui quidem [illegible] debet esse, nam [illegible] ex certa populi scientia induci debet, [illegible] l. [illegible] ff. de [illegible] [illegible] [illegible] l. [illegible] 31. ff. de adquir. [illegible] [illegible] Consuet. [illegible] [illegible] [illegible] [illegible] Bartolus Philippus [illegible]

[illegible]

de suppellectili [illegible] L. 3. § finali ff. de supellectili legata; [illegible] similiter hic error [illegible] potuerit [illegible] cum [illegible] sit necessa[illegible]
[illegible] ad consuetudinis institutionem [illegible] [illegible] [illegible] [illegible] nec [illegible] Bar
barius qui [illegible] populi error servum liberum effecit, cuius statum ignorabat [illegible], nec veraqua fundus est
qui frustra [illegible] dubitaret an quae dixerat et decreverat valerent, itaque humanitas ratio effecit, ut acta
ab eo rata manerent, ne [illegible] in maximum reipublicae damnum [illegible] [illegible] placuit, et [illegible]
vandi [illegible] [illegible] quae adducit Baldus [illegible] [illegible] ff. de legibus, ubi [illegible] n.° 28. ad [illegible] interpretandi
alias difficultas [illegible] 3. § finali ff. de supellectili legata =

n.° 41

Denique ut rebellitati [illegible] efficientem [illegible]
[illegible] ipse populus, vel [illegible] induxit, [illegible] [illegible], sive maior pars [illegible] ad maiorem [illegible] ut Munta
[illegible], debent omnes, aut maior pars [illegible], ut consuetudo inducta censeatur, ut [illegible] Sanchez [illegible]
[illegible] antiquiore [illegible] [illegible] ff. de [illegible], quos ibidem Baldus n.° 37. [illegible] efficient[illegible]
[illegible] = Finalis causa [illegible] est publica utilitas, namquemadmodum lex ad bonum publicum, nec [illegible] utili[illegible]
[illegible] ducatur, ut in l. 2. ff. de legibus [illegible] erit [illegible] lex 4 [illegible] similiter consuetudo [illegible] sit, quae utilitati [illegible]
[illegible] in particulari, [illegible] debet attendi [illegible]
6. de Constit. tradunt [illegible] Suare[z] [illegible] ar. 2. [illegible] D. Thomas 1.a 2.ae q. 90. art. 2. [illegible] 96. art.
1. 2. [illegible] [illegible] [illegible] quamvis [illegible] =

n.° 42

Dum hic interveniant, denique [illegible] sit rationabilis, legitimaque
praescripta, poterit [illegible] lex quae [illegible], et abrogari; namquemadmodum expedire valet ut lex
mutetur, corrigatur, aut abrogetur alia lege in melius data, ita et ratio expostulat, ut consuetudo [illegible] inducta, lex
abrogetur [illegible] ratio legis [illegible] quam [illegible] fuit, [illegible] et causis, quae [illegible]
locorum, et diversorum hominum mores, et [illegible] leges [illegible] ferantur, [illegible]
satis laudabile iudicari debet si secundum varietatem temporum statuta varientur humana, ut dicitur in cap.
[illegible] debet de consanguinitate et affinitate, [illegible] in l. unica [illegible] ubi notat Baldus C. de caducis tollendis =
cap. alma mater de sent. excommunicationis in 6. ubi [illegible] 2. [illegible] n.° 2. [illegible] L. 7. [illegible] 25 [illegible]
[illegible] tradit plura [illegible] D. Thomas 1.a 2.ae, q. 97. ar. 1.° Soto lib. 1. de iustitia, [illegible] q. 7. ar. 1.° Castro lib. [illegible]
[illegible] de lege poenali cap. [illegible] = [illegible] legum mutatio non debet de facili fieri, sed de necessitate, [illegible] bono communi [illegible]
ex Aristotele lib. 2. politicorum cap. 6. et lib. 5. Ethicorum cap. 7. [illegible] Principis [illegible]
[illegible] cap. 18. [illegible] [illegible] plures alii quos refert, et sequitur Tiraquellus lib. [illegible]
retractu § 2. [illegible] 9. n.° 53. [illegible] quos agitur quales [illegible] et authoritatem consuetudo habeat quid possit derogare
quid inducere, quibus nos remittimus [illegible] adnotasse =

n.° 43

Hinc descendit, proponendaque venit nostrae assertionis decisio
ratio, [illegible] quae inducit ad peccandum [illegible] hoc [illegible], quoniam consuetudo [illegible] sortiri debet [illegible]
rationabilis, legitime praescripta, ut [illegible] peccatum adest, vel inductio [illegible] consuetudo, [illegible]
[illegible] efficere [illegible] illicitum [illegible] et ideo [illegible] ex cap. finali [illegible] cap. [illegible]
[illegible] 52. q. 7. [illegible] proponitur in d. cap. finali [illegible], quia [illegible] tanto sunt graviora peccata, quanto diutius infelicem
animam detinent alligatam; [illegible] consuetudo [illegible] mali exempli temeritate crescente universalis [illegible]
[illegible], quae semper vitanda [illegible] nascerentur, [illegible] noster [illegible] consuetudo quae ad peccandum
inducat nullius [illegible] hanc decidendi [illegible] [illegible] repetentes [illegible]
in cap. [illegible] = Quare [illegible] consuetudo sit rationabilis, et legitime [illegible] valeat
[illegible] generaliter, [illegible] futuris [illegible] solent remedium adhibere [illegible]
de constitut. [illegible] C. de legibus [illegible] collectum ad [illegible] humana [illegible] futuras [illegible]
[illegible] L. [illegible] ff. de legibus, L. 2. § [illegible] C. de veteri iure enucleando, [illegible]
exinde [illegible] leges, quae [illegible] videbantur [illegible] postea consuetudine inducta [illegible] [illegible]
[illegible] [illegible] publicam [illegible]
[illegible] Castro lib. 1. de lege poenali [illegible] =

n.° 44

Illud [illegible] diximus. [illegible] tanto graviora peccata esse, quanto diutius animam
detinent alligatam, [illegible] longo tempore in peccato existentes [illegible]
[illegible] ff. [illegible] [illegible] aliquis in reatu fuerit [illegible] sublevandum [illegible]
[illegible] modo puniendos [illegible], qui longo tempore in reatu egerunt, quam eos qui in recenti [illegible] exceperunt. [illegible]
aliquid moderandum esse [illegible] qui diu in reatu, [illegible] perseveraverint, igitur [illegible] gravius [illegible] alius
[illegible] esse qui longo tempore in peccato existunt. [illegible] intelligendi, interpretandi [illegible] varias [illegible]
[illegible] tradit [illegible] in reatu [illegible] [illegible] lib. 2.
parerga cap. 10. [illegible] lib. 2. [illegible] cap. [illegible] Duarenus lib. 1. disputationum cap. 29. Cuiacius lib. 6. observationum
cap. [illegible] lib. 2. var. cap. [illegible]. [illegible] ut [illegible] difficultate liberemur, observamus [illegible]
[illegible] significare [illegible], aut delictum, ut [illegible] Alciatus, et alii [illegible]
[illegible] pendente accusatione donec absolverentur [illegible], agebant [illegible] [illegible]

inveniuntur

interveniencibus qui refert Cl[arus] ... epistolarum ... ad furtum ... quibus ait ... consuetudo

Coll. ubi d. ... instituti ... ff. ad l. Juliam Maiestatis, et ex l. finali §. de illo ff. de bonis eorum qui ante

mortem sibi... l. Cyriaco... §. fraudis ff. de bonis damnatorum, quibus etiam ... hec carmina Martialis

Si det iniqua tibi tristem fortuna reatum

Squalidus hærebit, pallidior que reo

Quæ explicat addita verba ... legis si quis ... et si quis diu in reatu extiterit, ...

... status aliquandiu ... l. Publicetur, quasi ... delictum ... n° 25.

qui ... Non ... quando dicebamus consuetudinem posse iuri positivo derogare, ... consuetudo ad peccandum inducens ... reprobata ... Respondetur dicendum est ... legitime præscripta, ... iuri positivo derogare ... si quidem favore publicæ utilitatis fuit inducta ... expositiva auferretur ... n° 26.

Cursum ... difficultas, qua probabamus nunquam ... consuetudinem rationabilem ... quæ legem auferat ... lex est iniusta ... auferri ... dicendum ... quod lex ... quando lex ... promulgatur ... consuetudo ... auferatur ... tur ... lege lata ... consuetudine legitime præscripta et rationabiliter auferatur ...

Decidendum ... consuetudinem ... legibus ... [illegible] ... contra leges ... n° 27.

Denique iam obstare ... adducta ...

Videbatur consuetudinem ... legi positivæ ... quia ... et ... rationabili ... præscripta ...

... l. 1. ff. de ... ubi ... consuetudo ... legem offendere ... usurarum ... arbitrio ...

... 27 ... legem offendere ... consuetudine ...

Quod obstat ... l. ... ff. ad ... ubi consuetudo ...

... nulla ... Bartolus, Paulus Castrensis, ... consuetudo ...

... consuetudo ... ut ... exemplo ... C. de decurionibus ...

... consuetudo ... 4° obstat ... C. de usuris, ubi ...

usurarum ... consuetudine ... a lege improbata ... Bartolo n° 5. =

n° 28.

Ex his omnibus ... decidenda ... nulla ...

42. de simonia ... consuetudo ...

... exercendi ...

... extorquere solere ...

Decideretur ... consuetudinem ... laudabiliter observandam ...

... simoniæ ... consuetudo ...

... 1° q. 1. ... rationabiliter observa...

... consuetudo ... obligat ... observari debet ...

... difficultatis ...

1° ... c. 22 ... Anima ...

Apostolicæ consuetudo laudabilis est ...

Convenit ... liberaliter ... fidelibus ... pecuniam ... administrari ...

... rationabiliter ... observari debet ...

Divus Thomas 2.2 q. 100 ar. 3. ...

... tales ... ministerii ...

... altari servientes ... n° 29.

Neque ...

... Sicut pro certo ... de simonia ... probatur

... difficultas ... de sepulturis.

Dare aliquid temporale [illegible] administrat[ione] sacram[en]t[o]rum adeo simoniacum esse ut nec longa [illegible] consuetudine effici ac stabiliri queat [illegible]; nam dicendum est predicta iura intelligi, et loqui [in] casu in quo consuetudo erat iniqua, originemque traheret ex iniusta causa, non ex pia, et devota fidelium devotione; quod vero adest fidelium devotio consuetudinem induci per [quam] aliquid [illegible] ecclesiasticis ministris [illegible] potest; talisque consuetudo utpote laudabilis erit, [illegible] nulla [illegible] veniant. [illegible] libere, [illegible] absque aliqua conventione [illegible]. 2º quod illud [illegible] datur [illegible] a recipientibus [illegible] a dantibus [illegible] volunt [illegible] in cap. Dilectus, cap. [illegible] certe de simonia = Amplius requiritur [illegible] deterius [illegible] ministrij, nam tunc simoniacum [illegible] cap. [illegible] certe de simonia, [illegible] debet dari ob aliquem [illegible] causam, puta [illegible] eleemosinæ, vel ministrorum sustentationis, vel peccatorum remissionis, [illegible] quæ consuetudo sit decernendus, quibus [illegible] consuetudine [illegible] administrat[ione] sacramentorum mediante pia devotione fidelium aliquid ministris [illegible] tradit hoc [illegible] Suarez [illegible] Tiberius Decianus 2º to. tractatus Criminalis lib. 5. cap. 79. n. 8. [illegible] plures que alij quos refert, et sequitur Barbosa [illegible] nº 24. [illegible] =

nº 20.

Nec me ab hac doctrina [illegible] removet [illegible] consideratio [illegible] qui sunt mere facultatis [illegible] consuetudo inducere ut necessitatis fiant, nec examina[illegible] induci [illegible] consuetudo de [illegible] aliquid solvendi, ut probat [illegible] l. Si Certi annis C. de pactis Cum vulgatis, [illegible] similiter [illegible] dicendum in [illegible] cap. ad Apostolicam nullam vim posse habere consuetudinem, [illegible] ex mera liberalitate [illegible] illa procedit. Cui difficultati dupliciter responderi potest; 1º dicendo quod quando annua præstatio adest gratis [illegible] facta, [illegible] legitima [illegible] induci consuetudo, quæ [illegible] intelligitur [illegible] l. Si Certi annis, [illegible] si ex aliqua [illegible] causa fiat; tunc decernenda consuetudo, et obligatio inducitur etiam in his qui sunt mere liberalitatis [illegible] Quaren [illegible] vel 2º responderi potest dicendo [illegible] l. Si Certi annis [illegible] habere locum in liberis [illegible] causis [illegible] favore etiam in mere voluntarijs inducitur consuetudo, et quamvis regulariter [illegible] favore [illegible] cap. [illegible] interpolatis, ita tradit Tiraquelus de privilegijs piæ causæ [illegible] =

nº 21

Quo ex lade [illegible] interpretanda [illegible] cap. obijciuntur 7. 32. q. 4 [illegible], obijciunt Jacob quatuor uxores, quod quando mos erat crimen non erat, [illegible] aperte colligitur ex consuetudine posse quem plures simul habere uxores, et hoc peccatum [illegible] divino, ut constat ex authoritatibus in cap. gaudemus de divortijs Cum vulgatis, [illegible] consuetudo quæ peccaminosa est debet observari quantumvis [illegible] statuatur. Hanc difficultatem ut dissolvam animadvertendum [illegible] 1º dicendum polygamiam hoc est [illegible] plurium simul uxorum [illegible] esse prohibitam [illegible] divino constat ex authoritatibus relatis in cap. gaudemus, et [illegible] = [illegible] canonico [illegible] cap. gaudemus de divortijs, cap. nuper de bigamis, cap. Licet ex [illegible] de sponsa duorum, cap. [illegible] de [illegible], [illegible] l. 2. C. de incestis nuptijs, l. [illegible] C. ad [illegible] Juliam de adulterijs, [illegible] § 1 [illegible] de his qui notantur infamia, [illegible] l. C. de [illegible] § affinitatis, § [illegible] de nuptijs, [illegible] lib. 4. [illegible] lib. 2. [illegible] Tiraquelus in [illegible] Connubiali [illegible] nº 15. Menochius [illegible] Ordinamenti, docent, et explicant ultra ordinarios [illegible] Belarminus [illegible] de sacramento matrimonij lib. [illegible] de arbitrarijs cap. [illegible] Petrus Gregorius [illegible] Syntagmatis cap. [illegible] nº 11. [illegible] Thomas Sanchez lib. 7. de matrimonio disp. 80. nº 16. [illegible] cap. 10, Cobb. [illegible] cap. 7. § 3. [illegible] alijs authoritatibus, nec [illegible] refert lib. 7. de matrimonio cap. [illegible] =

Secundo sciendum est polygamiam [illegible] primis principijs [illegible]

nº 22.

iuris naturalis [illegible] quamvis [illegible] conclusionibus deductis [illegible] primis principijs, qua [illegible] [illegible] impediretur. [illegible] alijs [illegible] matrimonij est in remedium [illegible] quod quando mos erat crimen non erat [illegible] intelligenda de [illegible] relati authores dicimus [illegible] de divina [illegible] et revelatione [illegible] consuetudo [illegible] a populo inducta, de qua nunc est disputatio, [illegible] revelat divina [illegible] fuit [illegible] ut testatur Sanctissimus [illegible] licuit plures uxores simul habere [illegible] Belarminus, Cobb., et Menochius [illegible] nec Justinus Martyr in dialogo cum Tryphone Judæo, [illegible] Coloniensis cap. [illegible] dispensatio [illegible] plures uxores [illegible] synagogam et gentis multitudinem [illegible] Belarminus [illegible] cap. 10 [illegible] dispensatio fuerit concessa [illegible] plures uxores [illegible] in temporum [illegible] iuris naturalis principijs [illegible] facile dispensari, et dispensatio [illegible] peccatum [illegible] consuetudo [illegible] qualiter ad peccandum inducerent [illegible]

3º infertur [illegible] ad [illegible] Alexander 3º [illegible] relatus in cap. [illegible]

nº 27.

[illegible] de cognatione spirituali, ex [illegible] deducitur consuetudinem [illegible] ut filij [illegible] ad paternitatis matrimonium [illegible], validum [illegible] separandi, [illegible]

Cad. iv, et in certis[?] peccatis in matrimonio [illegible] auth. in [illegible] consultis, [illegible] qui [illegible] ad peccandum [illegible] libere [illegible] observanda [illegible] ad illud [illegible] et cautum. Verum licet hic [illegible] [illegible] sit [illegible], [illegible] absoluendas, si [illegible] tolerari [illegible] talis erat [illegible] qui [illegible] illi [illegible] in cap. [illegible] spiritualem [illegible] observari [illegible]. [illegible] ratio dubitandi [illegible] stare, nam erat consuetudo [illegible] adiacentibus ecclesiis, ut filii [illegible] quorum [illegible] ad paternitatem erat [illegible], et [illegible] erat [illegible] antiquo [illegible] in cap. [illegible] post susceptum [illegible] erat observandum, [illegible] videbatur [illegible] herent, [illegible] excusari, [illegible] respondit [illegible] tolerandam; nam sicut grave est [illegible] consuetudo [illegible] adiacentibus [illegible] superfluis modo [illegible] contemnere, sic quoque grauius [illegible] huiusmodi [illegible] tribuat [illegible] posset ad alios in exemplum [illegible]. [illegible] consuetudo illa [illegible] [illegible], [illegible] peccatum cessat, [illegible] observanda [illegible] peccati [illegible] inuenitur, tradit [illegible] in 4.° [illegible] cap. 6. §. 10. n.° 17. et 18. =

n.° 24

Expectat huc [illegible] cap. [illegible] 35. q. 8. ubi dicitur quod si multo tempore [illegible] Curricula sint reuoluta, ut aliqui in gradu prohibito [illegible] inuenti in matrimonio copulati [illegible] debent separari, [illegible] consuetudo [illegible] efficere ut illud [illegible], [illegible] peccatum [illegible], et ad [illegible] dicendum [illegible] nulla [illegible] naturali, aut diuino [illegible] in gradu sunt, ut [illegible] in 4.° [illegible] cap. 6. §. 10. n.° 4. [illegible] Curricula [illegible]. [illegible] dispensationem legitima [illegible], [illegible] ignoranter [illegible] in gradu prohibito, multaque annorum Curricula [illegible], et filios susceperint, [illegible] scienter [illegible] facilius dispensaretur, [illegible] facta [illegible] dispensatio [illegible] facta de matrimonio [illegible] ita intelligendum [illegible] prior [illegible], [illegible] dispensatio [illegible] separandi sunt, [illegible] peccatum, [illegible] tale [illegible] ausus, [illegible] acriter puniri [illegible] separabitur =

n.° 25

Quo [illegible] Veniunt auth. [illegible] C. [illegible] Liberis, et auth. ex complexu C. de incestis nuptiis [illegible] Filios qui [illegible] et [illegible] peccati [illegible] per [illegible] consuetudo ad peccandum, persuadet [illegible] observandam [illegible]. Verum facile hic difficultas [illegible] soluitur [illegible] qui [illegible] ad [illegible] educatos, [illegible] parentibus [illegible] difficilius [illegible] in cap. [illegible] habetur [illegible] in matrimonio, [illegible] statuit libere [illegible] alimenta conferenda [illegible] ab utrisque parentibus [illegible] terris temporaliter [illegible], [illegible] in cap. [illegible] [illegible] peccatis, obligationes naturales [illegible] Iurisd. [illegible] 1. [illegible] n.° 11. et [illegible] 3. n.° 17 [illegible] in [illegible] cap. habetur, qui [illegible] explanat [illegible]

n.° 26

Denique [illegible] alia [illegible] explicari, [illegible] ut ad aliquas [illegible], [illegible] omittimus, proponimusque [illegible] hic inuenias =
Sunt [illegible] in cap. [illegible] cap. [illegible] de foro competenti, cap. [illegible] cap. 2. de penitentiis et remissionibus, cap. [illegible] cap. 2. de probationibus aliaque [illegible] explicabis, [illegible] ad [illegible] =

Si quis a liberis [illegible] de liberis agnoscendis [illegible]

Ad D. Textum in cap. ut periculum 45. de elect.

Ad tit. de electione et electi potestate

Schedas. 6.ª

Ad Titulum de Electione, et electi potestate nova inchoatio.

Preludium.

Post quamquam [illegible] incognitas tractationes, quas annis totidem illustrandas Vesperti[illegible] antecessoribus Academicae Leges reservebant, in nullis exilius [illegible] absoluimus; [illegible] [illegible] delectare. Verum [illegible] [illegible] [illegible], nova item commentaria [illegible], o amantissimi auditores [illegible] [illegible] Academ[illegible] itaque inter tot [illegible] fragmenta, nobilem, difficilem, elegantem [illegible] [illegible] illustrabimus [illegible] de electione et electi potestate, [illegible] [illegible] in quo [illegible] [illegible] [illegible] Electione [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] animo [illegible] [illegible] [illegible] [illegible] [illegible].

[illegible] Rubri[illegible].

n. 1. Greg. 9. [illegible] maximus nostram Romanam Catholicam Ecclesiam gubernavit ex anno 1227 [illegible] [illegible] authoritate et mandato frater Raimundus [illegible] Capellanus [illegible] Poenitentiarius anno circiter 1230 Decretales recop[illegible] [illegible] [illegible] qui ita nominantur, quoniam in illis [illegible] [illegible] Pontificum [illegible] ad [illegible] Decreti Gratiani in quo [illegible] [illegible] extant Decreta. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] in scripto [illegible]. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] observari curent L. 2. ff. de origine iuris [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Imperatore Iustiniano [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible], [illegible] electi [illegible] potestate, [illegible] [illegible] [illegible] personis Ecclesiasticis [illegible] sacrorum Canonum ministris, [illegible] [illegible] [illegible] [illegible] [illegible] postulatione, electione, translatione [illegible] [illegible] [illegible] [illegible] [illegible] titulus post antecedentem [illegible] sit collocatus, nec [illegible] post titulum de postulatione Praelatorum, [illegible] [illegible] postulatio [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] postulationis admittatur, [illegible] nomen electionis sit generale, [illegible] postulationem, nominationem, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Canonici [illegible] electionis nomen, ad [illegible]

Quando Clerici vel Cives eorum eligendi habeant facultatem, nec is ducunt Voc. Dec. [illegible] in ea [illegible] ad [illegible] ad Tarraconensem Provinciam Scribentis, [illegible] expectaretur certe Vota [illegible], testimoniis [illegible] quererem [illegible] Tarr. [illegible] electio Clericorum, qui in Sacerdoti solent [illegible] ab his qui noverunt Patres [illegible], tradit [illegible] [illegible] ad [illegible] expectantia [illegible] Petrus Greg. Innocentius Cironius, Andream Valer [illegible], [illegible] [illegible] Phil. [illegible] 7. [illegible] [illegible] Franciscus Hallier [illegible] [illegible] cap. 4. [illegible] [illegible]

n.° 3.

Definit. [illegible] electionis specialiter respectu [illegible] [illegible] [illegible] per nos [illegible] Varie, [illegible] [illegible] assignari [illegible], ut [illegible] qui tradunt Abbas Panormitanus [illegible] [illegible] Decius [illegible] Augustinus Barbosa [illegible] ex antiquioribus [illegible] repetentes, [illegible] [illegible] [illegible] quid [illegible] electio n.° 1.° [illegible] Petrus Greg. [illegible] cap. 1. n.° 2. [illegible] [illegible] [illegible] electio ut alicuius [illegible] [illegible] canonice [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] antiquiores [illegible] repetentes, aprobant, prosequuntur [illegible] Andreas Vallensis [illegible] [illegible] n.° 3. Cum duobus Seqq. Similiter in summa [illegible] electio n.° 1.° Nicolaus Garcia beneficiis 1.a p. cap. 6. n.° 45. Cum Seqq. [illegible] 4. [illegible] n.° 6. [illegible] Cancelarius [illegible] Lambertinus de iure patronatus [illegible] [illegible] 9. [illegible] art.° 20 n.° 6. pluresque alij ab eisdem relati [illegible] [illegible] [illegible] ad [illegible] electio [illegible] necessario [illegible] specifice [illegible] [illegible] [illegible]

n.° 4.

[illegible] [illegible] tractantur [illegible] [illegible] [illegible] genera [illegible] [illegible] scrutinium [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] hoc [illegible] [illegible] [illegible] oportet. [illegible] electio scrutinium [illegible] fieri dicitur quando secrete, sigillatim et [illegible] [illegible] eligentis [illegible] [illegible], [illegible] [illegible] [illegible] [illegible] libere, [illegible] adiecta, vel alternative [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] postmodum [illegible] [illegible] scrutinium [illegible], ut [illegible] 32 [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] debeat [illegible], [illegible] hoc seculo [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] patrios [illegible] dixit Prudentius [illegible]

O Servemus patrios [illegible]

Vox Cedat mea [illegible]

[illegible] [illegible] scrutinium [illegible] tradit [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

n.° 5.

[illegible] [illegible] [illegible] [illegible] Innocentius [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] electus [illegible] [illegible] [illegible] [illegible] [illegible] maior [illegible] [illegible] numero [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] electio [illegible] a maiori, et saniori [illegible] [illegible] [illegible] minori [illegible] [illegible] electio facta a maiori et seniori [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] saniori [illegible] [illegible] electio [illegible] invalida, quia [illegible] debet fieri a maiori, et saniori [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] electio facta a minori [illegible] minor [illegible] [illegible] [illegible] saniori [illegible] maior [illegible] [illegible] numero [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] tradit [illegible] [illegible] [illegible] Abbas Panormitanus [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] accedam [illegible]

n.º 6.

Per compromissum celebratur et fit electio cum per omnes [illegible] talem [illegible] nominantur plures electores, unusque, qui vice [illegible] utentes, et [illegible] eligant eum quem [illegible] ad dignitatem de qua agitur [illegible] ad hi tales electores [illegible] sint [illegible] Coll. [illegible] 2 [illegible] § 10 n.º 3 de [illegible]. Lamberinus [illegible] [illegible] principali art. [illegible] Suarez [illegible] de relig. [illegible] 2 de religioso [illegible] quos [illegible] C. [illegible] sacro [illegible] dum electio celebrata, nisi canonicus [illegible] sedibus, electus per canonicos [illegible] et confirmandus [illegible] cap. [illegible] 42 [illegible] formam compromissi electores excedant, nam ea electio poterit removere, cap. Cum dilectus [illegible] I. [illegible] 23. [illegible] Et licet in aliis collegiis, vel capitulis rebus ministrandis, et exercendis maioribus sufficiat [illegible], tamen in electione per compromissum celebranda [illegible] consensus requiritur, adeo ut si unus tantum deficiat, compromissum cesset, dicto cap. [illegible] vel [illegible] eligendi potestas aliquibus [illegible] idoneis committitur qui vice omnium [illegible] providerent [illegible] nec sine [illegible]; nam cum [illegible] sint voluntates, et ad omnes spectent, ab omnibus debent approbari [illegible]. Et hac electionis formula [illegible] proponitur in cap. Cum [illegible] 29 [illegible] ut debere electores [illegible] multitudo [illegible] eligentes, [illegible] admonet [illegible] et docet [illegible] [illegible] quaesitum [illegible] de predicta materia [illegible] congerit.

n.º 7.

Altera electionis [illegible] est quae per quasi inspirationem divinam fit, [illegible] illa quae efficitur ut quis eligatur ab omnibus unanimiter, et velut conspirante consensu absque aliquo [illegible] ita divino [illegible] inspirante [illegible] in [illegible] cap. [illegible] 42 [illegible]. Quasi electionis per divinam inspirationem factae [illegible] exempla, ut contingit in Divo Nicolao, qui cum laicus esset [illegible] divinae [illegible] fuit electus; et in Divo Ambrosio, qui adhuc [illegible] baptizatus ab omnibus [illegible] unanimiter fuit receptus, teste Paulino [illegible] in summorum Pontificum electionibus [illegible], et nostro [illegible] Leo [illegible] hac via [illegible], et hanc [illegible] inspirationem [illegible] intervenisse [illegible] sacra pagina; ubi legitur Moysem [illegible] fuisse electum, [illegible] Regem nominatum, et plures alios ad dignitates [illegible]; et similiter hanc electionem [illegible] inspirationem certum est, ut [illegible] cap. [illegible] tempore Apostolorum electi fuerunt [illegible] diaconi; et maiores [illegible] elegerunt Paulum, et Barnabam, [illegible] et Judam [illegible] ut [illegible] ex actibus Apostolorum cap. [illegible], et 15. [illegible] Bar. (?) Cironius, et Fran. Hallier [illegible].

n.º 8.

In his tribus electionis speciebus illud observandum est [illegible] Basiliense, ut [illegible] pertinet electio advenientie die electionis, conveniant in [illegible] missa de Spiritu Sancto [illegible] audiant; [illegible] ut eos dignetur inspirare quam [illegible] sit [illegible] electio. [illegible] ut devotius ad electionem procedant, reverenter [illegible] suscipiant, [illegible] qui capitulo vel [illegible] praeerit, et [illegible] quibus [illegible] electores [illegible] electionem [illegible] adstare, [illegible] tantum [illegible], sive sint absentes [illegible] sunt [illegible] [illegible] debet [illegible] cap. [illegible] ult. [illegible] cap. Coram [illegible] 35. cap. [illegible] 55. [illegible] [illegible] si voluerint [illegible] Colerio [illegible] vices, et sui suffragii [illegible] cap. [illegible] [illegible] cap. quia [illegible] [illegible] absentis [illegible] [illegible] consuetudo [illegible] Cironius [illegible] Gregor. [illegible] Tamburinus [illegible] de [illegible] Abbat. [illegible] 5. quaesito [illegible] Suarez [illegible] de relig. [illegible] 2. de religioso [illegible] cap. 5. n.º 7 [illegible] [illegible] qui [illegible] et [illegible] qua de re expectant [illegible] cap. quia [illegible] 42 [illegible] (?) Pontifice [illegible] in cap. quia [illegible] 42 [illegible].

Denique [illegible] electio [illegible], de qua [illegible], compromissi, vel quasi inspirationis celebrata

n.º 9.

[illegible] in illis electionibus, [illegible] Capitulo, vel superioris authoritate [illegible] vel beneficiorum [illegible] electionibus [illegible] cap. [illegible] 3. [illegible] electionibus celebrandis [illegible] [illegible]

[illegible] singulariter [illegible] vel [illegible] [illegible]

[illegible] quae refert, [illegible] Barbosa in Collectaneis [illegible]
[illegible] defunctis; [illegible]
bonae memoriae 36 [illegible] tract. [illegible]
[illegible] quo statu defuncti, [illegible] electores [illegible] conveniunt [illegible]
[illegible] electione [illegible]
Clandestine [illegible] facere [illegible]
n.o 10
[illegible] electiones [illegible] accedat [illegible] sortitio [illegible]
[illegible] Mathias [illegible] fuit electus [illegible]
eligendi [illegible] et Cecidit sors [illegible] Mathiam, et annumeratus [illegible] Apostolis [illegible]
[illegible] calculis [illegible] necessarium [illegible]
[illegible]
Augustinus in psalmo 30 [illegible] humana [illegible]
Paulum et Barnabam qui ut [illegible] Apostolorum authoritate [illegible]
Dixit Dominus, Segregate mihi Paulum, et Barnabam in opus ad quod assumpsi eos; [illegible]
[illegible] sine [illegible] periculo, [illegible] divino Oraculo, [illegible]
[illegible] antiqua [illegible] cap. 7. [illegible] cap. 3. [illegible]
cap. [illegible] Cirilli [illegible]
[illegible] generaliter [illegible] 27. [illegible]
[illegible] sortium [illegible]
[illegible] Quae sortium electio [illegible]
[illegible] Honorius 3.us [illegible]
[illegible] 26. [illegible]
[illegible] electionis [illegible]
cap. 38, [illegible] cap. [illegible]
[illegible] cap. 3. n.o 20, [illegible]
[illegible] electionis [illegible] Variis [illegible]
n.o 11
Itaque [illegible] dicimus Deum Dominum [illegible] Iesum [illegible] elegisse sibi [illegible] Apostolos [illegible]
[illegible] 33. [illegible] D. Petrum, [illegible] Tu es Petrus
et super hanc petram [illegible] Ecclesiam meam, et tibi dabo Claves regni [illegible] Petrus [illegible]
fuisset constitutus [illegible] 24 Coadiutores et [illegible]
[illegible] determinavit, et simul ordinavit, ut [illegible] electores Summi Pontificis, [illegible]
[illegible] in cap. oportebat. S. 79. dist. [illegible] Barbosa [illegible] de Summo Pont. [illegible] 26.
[illegible] licet [illegible]
[illegible] electio [illegible] Cardinalibus [illegible]
[illegible] 10 ex Archidiacono, et [illegible] 37. [illegible]
[illegible] eligi [illegible]
[illegible] 6. n.o 11. [illegible] 53. [illegible]
[illegible] cap. oportebat 79 dist. [illegible]
[illegible]
[illegible] Imperatoris, [illegible] cap. 2.o [illegible]
[illegible] Deinde [illegible]
[illegible] 1059 [illegible] Romani Pontificis [illegible] Cardinalibus [illegible]
[illegible] Cardinales [illegible]
[illegible] Pontificis cap. [illegible] electio [illegible]
Cardinales [illegible] usque [illegible] Nicolai 2.i = [illegible] Alexander 3.us [illegible] Lateranensi [illegible]
[illegible] 6. [illegible] electio [illegible] Pontificis [illegible]
sine [illegible] Cardinalibus [illegible]

[illegible] Generali [illegible] ubi [illegible] 3. [illegible] et [illegible] Viennensi [illegible] Lato in Clem.ᵗⁱⁿᵃ ne Romani [illegible] Bonacina de elect. [illegible] [illegible] quos refert et sequitur [illegible] 99. [illegible] n.° 13.

[illegible] ab aetate temporis [illegible] electio summi [illegible] examinanda est [illegible] varietate [illegible] Primis itaque temporibus electio [illegible] ex auth.ᵗᵉ Divina [illegible] pertinent cap. [illegible] 2. 22 d., postea aliud tempus advenit in quo episcopi [illegible] eligebantur de consensu populi, cap. plebs [illegible] 63 d. et a Metropolitano [illegible] consecrabatur cap. [illegible] 4. 63 dist. [illegible] populus [illegible] acclamationibus [illegible] merito cautum fuit [illegible] populus [illegible] electionibus [illegible] cap. [illegible] 63 d. = [illegible] Apostolica [illegible] Principibus 63 d. [illegible] Reges [illegible] 63 d. [illegible] Principes [illegible] 63 d. [illegible] aliud fuit tempus quo [illegible] religiosis [illegible] electio, cap. [illegible] 63 d. = [illegible] Cathedralium cap. [illegible] 2. [illegible] 7. cap. [illegible] aliud advenit tempus quo [illegible] electio [illegible] Canonicis [illegible] = Verum [illegible] noster [illegible] Rex [illegible] Laici [illegible] ex privilegio [illegible] Sede Apostolica [illegible] 46. [illegible] 3. [illegible] 4. [illegible] 63 dist. [illegible]

[illegible] n.° [illegible]

[illegible]

[illegible] Venerabilis [illegible]

[illegible]

[illegible] Summo Pontifice [illegible] Summi Pontificis [illegible] Valer. [illegible] 5 [illegible]

[illegible]

[illegible] Thomas Sanchez [illegible] Covarrubias [illegible] cap. 2. dubit. [illegible] n. 3. [illegible] 29. [illegible] cap. [illegible] =

N. 26.

[illegible] Huius confirmationis necessitas [illegible] electus scilicet, [illegible] inter [illegible] Republica [illegible] [illegible] [illegible] [illegible] cap. [illegible] 638. [illegible] Hostiensis, et Panormitanus [illegible] in cap. [illegible] hoc tit. [illegible] electus [illegible] de [illegible] [illegible] [illegible] Lib. 4. tract. 2. cap. 12. n. 2. Nicolaus Garcia de benef. p. 5. c. cap. 4. §. 3. Barbosa [illegible] cap. [illegible] refert [illegible] Azor, et alios [illegible] =

N. 27.

Hinc descendit forma qua [illegible] confirmatio debet fieri, [illegible] [illegible] electionis [illegible] [illegible] cap. Cum [illegible] 6. §. [illegible] hoc tit. [illegible] [illegible] electionis [illegible] [illegible] [illegible] electionis [illegible] [illegible] Postmodum electus [illegible] [illegible] [illegible] [illegible] vita, moribus, et [illegible] [illegible] cap. [illegible] cap. nihil [illegible] [illegible] [illegible] [illegible] cap. 2. [illegible] [illegible] [illegible] [illegible] Andreas [illegible] [illegible] formula [illegible] in cap. quam sit [illegible] [illegible] Barbosa [illegible] [illegible] Cancellarii [illegible] 50. [illegible] [illegible] [illegible] Velut excommunicare, [illegible] Vasallos recipere, [illegible] confirmare, [illegible] cap. [illegible] [illegible] Nicolaus Garcia, Barbosa [illegible] =

N. 28.

Unica advertimus [illegible] potestas electi [illegible] [illegible] ordinis [illegible] Consecrat. [illegible] cap. finali de [illegible] [illegible] [illegible] Celebrare [illegible] cap. [illegible] 20. [illegible] [illegible] [illegible] [illegible] cap. [illegible] 75. [illegible] [illegible] cap. [illegible] de reformat. [illegible] [illegible] ordinationis cap. [illegible] [illegible] [illegible] caput et cervicem [illegible] cap. ordinat. 75. [illegible] benedictionis [illegible] [illegible] manibus [illegible] [illegible] [illegible] [illegible] Pontifices [illegible] [illegible] [illegible] [illegible] Pontifices [illegible] [illegible] [illegible] [illegible] [illegible] cap. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] =

[illegible]

[illegible] Spiritualia [illegible] Celebrentur [illegible] fieri debet [illegible] ad [illegible] Capitulo [illegible] [illegible] Sermonibus [illegible] 9. =

Denique [illegible] in qualibet dignitate, Canonicatu, [illegible] ad [illegible] altari servit de altari vivere debet [illegible] Barbosa [illegible] [illegible] Barbosa [illegible] 12. [illegible]

= Omnia [illegible] perfecta [illegible] =

Academica et Solemnis Repetitio [illegible]

= 1a. [illegible] de electione et electi potestate =

n. 1o. Nostri [illegible] quis sit valde [illegible] controvertitur, alii [illegible] alii denique Alexandro tribuunt adeo ut fere omnes dicant hoc minime constare posse, nec huius [illegible] Barbosa [illegible] cap. 3. n. 25. Verum nos illis omissis [illegible] sequentes, nec in [illegible] Decretalium [illegible] Lucii 3. [illegible] Romani [illegible] Cardinalis factus Tituli Sanctae Praxedis [illegible] Cardinalatus [illegible] anno Domini 1181 [illegible] Urbe Roma a expulsus [illegible] Consules vel Senatores [illegible] Veronam [illegible] 7o Calendas Decembris anno [illegible] 1185 [illegible] Fuit in [illegible] Cathedrali Veronae cum hoc [illegible] epitaphio

Luca, Luci, tibi dedit ortum, Pontificatus
Ostia, Papatum Roma, Verona mori.
Immo Verona dedit tibi lucis gaudia, Roma
exilium, curas Ostia, Luca mori. =

2o. [illegible] in Cronicon [illegible] 46. anno 1181 [illegible]

n. 2o. [illegible]

n. 3o. [illegible] Hadrianus [illegible]

[illegible] Navarr[illegible] [illegible] in cap. [illegible] [illegible] [illegible] [illegible] Marta

Garcia de benef. [illegible] cap. [illegible]. Pater [illegible] de [illegible] [illegible] [illegible] [illegible]

de [illegible] Abbat[illegible] [illegible] [illegible] [illegible] Suarez [illegible] [illegible] [illegible] [illegible] [illegible]

Sequitur Barbosa in Collectaneis ad [illegible]

n. 3. Quamvis licet haec [illegible] tot viribus confirmata, totque authoritatibus illustrata veritas sit, difficilis tamen redditur ex sequentibus [illegible]. Et natura talis consideratur quia certa [illegible] regula [illegible] [illegible] [illegible] quod habet de [illegible] cap. [illegible] [illegible] [illegible] [illegible] [illegible] qui [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] dignitas, qui [illegible] tribuitur, in Canonicis Capitulum [illegible] [illegible] [illegible] Collegiatis [illegible] ut [illegible] [illegible] [illegible] alteri [illegible] [illegible], ac [illegible] Collegium [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

n. 4. [illegible] diversis [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] apertè constat [illegible] licet [illegible] [illegible] eligere [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] ad [illegible], [illegible] [illegible], licet benef. [illegible] [illegible] habere, nec procedere ad vacantis [illegible] electionem, [illegible] [illegible] [illegible] quam [illegible] [illegible] [illegible] exstant [illegible] illi electio denegatur, [illegible] [illegible] [illegible] [illegible] duobus [illegible] [illegible]

n. 5. Denique [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Canonicos, [illegible] [illegible] [illegible] [illegible] ad [illegible] humanam [illegible] simoniacas [illegible] quibus [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] cap. [illegible] [illegible] [illegible] [illegible] regularis, nec [illegible] [illegible] Collegio [illegible] [illegible] [illegible] authoritatis [illegible]

Cap. [illegible] cap. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Canonicis [illegible] [illegible] [illegible] [illegible] Canonici [illegible] [illegible] [illegible] [illegible] [illegible] videtur

n. 6. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] in Ecclesia Catholica [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Canonicorum [illegible] [illegible] [illegible] [illegible] [illegible] Clericorum [illegible] laicorum, ut [illegible] [illegible] [illegible]. [illegible] D. Hieronymus [illegible] [illegible] 12. q. 1. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Ecclesiasticis [illegible] [illegible] Clerici, qui [illegible] ministerio [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Clericos [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] adversus [illegible] Calvinum Cardinalis Belarminus [illegible] controversiarum [illegible] presbyter [illegible] Ecclesiastica [illegible] [illegible]

[Marginal note:] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Theodorum [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

Nec [illegible] [illegible] [illegible] [illegible], quid [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Collegii [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Flores [illegible] de benef. [illegible] 37 [illegible] benef. [illegible] Thomas [illegible] [illegible] [illegible] cap. 2. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] cap. 9. [illegible] Barbosa [illegible] Ecclesiastico [illegible] [illegible] [illegible] [illegible] [illegible] benef. [illegible] cap. 14. [illegible] [illegible] [illegible] [illegible] de [illegible] benef. n. 16. [illegible] Garcia de [illegible]

[Marginal note:] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

cap. 4. n.° 9. [illegible] in [illegible] § 2. n.° 17. [illegible]
[illegible] affirmans [illegible] iudicij [illegible]
[illegible] beneficij [illegible]
[illegible] =

Animadvertendum [illegible] ubi duo vel plures [illegible]

omittendum [illegible] Abbatis [illegible] ecclesiastici [illegible]
ad Collegij [illegible] Cathedralis, vel Collegialis, aut Collegium [illegible] quolibet [illegible]
Communitatis aggregatio [illegible] nominandi [illegible]
Ceteris [illegible] tam [illegible] personae repraesentat
[illegible] universitatem [illegible]
[illegible] communi [illegible]
[illegible] universitatis [illegible]
Cum [illegible] in [illegible] universitatem [illegible]
[illegible] potentis [illegible]
[illegible] Collegium [illegible] eligere [illegible]
[illegible] nominet [illegible]
[illegible]
[illegible] =

[illegible] eligendi duplex [illegible]

[illegible]

[illegible]

[illegible] proponenda [illegible]

[illegible]

n. 3 [illegible]

[illegible] respondeo [illegible]

n. 4 [illegible]

[illegible]

n. 5 [illegible]

[illegible]

n. 6 [illegible]

[illegible]

adeo qui viam regulam exercere. [illegible] sufficientiae [illegible] nullius [illegible]

dicendo illud [illegible] in materia de [illegible]

[illegible]

Sibi malos [illegible]

[illegible]

[illegible] Communicatione [illegible]

[illegible]

[illegible] ad divini Cultus [illegible] Emmanuel [illegible]

[illegible]

Denique examinandum [illegible] Toletani [illegible]

[illegible]

Sect. Secunda

[illegible]

[illegible]

in quibus aliquid [illegible] spirituale offertur sint simoniaci [illegible] debet [illegible]
[illegible] generaliter [illegible] casibus illa annullantur =

n. 24

[illegible] ut distinguant inter [illegible] [illegible]
[illegible] simonia [illegible] datur [illegible] ut [illegible]
ind. cap. [illegible] n. 3. Cum [illegible]
[illegible] Simoniae [illegible] [illegible]
[illegible] [illegible] Castro [illegible]
spiritualibus quolibet [illegible] cum [illegible] ut aliquid [illegible] spiritualis [illegible]
[illegible] habendi ut [illegible] permutat [illegible]
[illegible] ad [illegible] spiritualem [illegible] debet, quia [illegible]
[illegible] temporale [illegible] illud [illegible] docet [illegible]
[illegible] Homilia 4. [illegible] a Graziano [illegible]
ab obsequio [illegible] a manu [illegible]
[illegible] a manu [illegible] temporale [illegible]
[illegible]

Hoc [illegible] proponendum [illegible]
[illegible] quolibet simoniae [illegible] interveniente, nullas sunt [illegible] spirituale, et [illegible]
[illegible] cap. [illegible]
[illegible]
[illegible] Sanchez [illegible]
[illegible] reformat, [illegible] cap. 10. [illegible] cap. [illegible]
[illegible]
cap. 1. de [illegible]
[illegible]
cap. ordinationes 113. [illegible] 23. q. 4. in quibus [illegible] electionibus [illegible]
[illegible] semper [illegible] damna, [illegible] pericula [illegible]
[illegible]
[illegible]
[illegible] Meritò [illegible] de simonia [illegible]
[illegible] de Simonia [illegible] n. 7 [illegible] cap. 2. [illegible]
n. 26.

Ex qua [illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]

[illegible]
[illegible]
[illegible]
[illegible] Nos [illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]

n. 27.

[illegible] difficultas [illegible]
[illegible]

[illegible] ut ex posterioribus [illegible]

[illegible] = 2. [illegible] Vicebar [illegible]

[illegible] [illegible] [illegible]

[illegible] exilio [illegible]

[illegible] Barbosa [illegible] 27. [illegible] n.º 30. [illegible] arbitri [illegible]

[illegible] = Denique [illegible]

Solvendus [illegible]

[illegible] capit. [illegible]

[illegible] = [illegible]

[illegible] amicabiles [illegible]

[illegible] arbitrium [illegible] = Et [illegible]

[illegible] arbitrium [illegible]

[illegible] = Porro [illegible] difficultas [illegible] 1.º [illegible]

[illegible] n.º 23. = [illegible]

[illegible] superioris auctoritate [illegible]

[illegible] religiosis [illegible] beneficii [illegible]

Generatur, ut [illegible] = [illegible] =

n.º 20.

[illegible] simonia [illegible]

[illegible] ignorante [illegible] dispensari [illegible]

[illegible] simoniace beneficii [illegible]

[illegible] electio simoniace facta [illegible] simonia [illegible]

[illegible] nullas [illegible] dispensationem [illegible] = Huic difficultati ut respondeamus [illegible]

[illegible] ignorantia [illegible] simonia [illegible]

[illegible] decisio [illegible]

[illegible] simoniaca [illegible] electio [illegible]

[illegible] simoniace [illegible]

[illegible] beneficii [illegible] simonia [illegible]

[illegible]

[illegible] cap. 23. n.º 2. [illegible] Cobo [illegible] § 8. [illegible]

[illegible] cap. 57. n.º 25. [illegible]

[illegible] decissio [illegible] 29. [illegible]

[illegible] 5.º [illegible]

n.º 30.

[illegible] ac [illegible]

[illegible] n.º 27. [illegible]

33. de Simonia [illegible] electione simoniaca [illegible]

[illegible] cap. 57 [illegible]

[illegible] Cobo [illegible] n.º 8. Navarro [illegible] 95. [illegible] simonia [illegible]

[illegible] 33 = [illegible]

cap. 23. n.º 3. [illegible]

[illegible] 28. [illegible] beneficii [illegible]

[illegible] 28. [illegible]

[illegible]

[illegible] = [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

Denique arbitrati[illegible] [illegible]

[illegible] potius [illegible] certa[illegible] [illegible] imperium [illegible]

[illegible] quae imperium [illegible] necessari[illegible]

[illegible]

[illegible] imperium [illegible]

[illegible] tempora diversimodi [illegible]

[illegible]

[illegible] bona [illegible]

[illegible]

[illegible] auctoritatem [illegible]

et Vicepro[illegible] [illegible]

[illegible]

nec [illegible]

[illegible]

[illegible]

Dum [illegible] populi et Cleri [illegible] ad eligendum, sed ad assentiendum [illegible] quod [illegible]

[illegible] diximus. = Vel [illegible] dici [illegible] ad tempus [illegible] hoc est [illegible]

[illegible] Canonicas [illegible]

[illegible] primario de populi [illegible] et de Clero, et [illegible]

[illegible] decretum Decreto [illegible] testimonij [illegible]

n.o 24.

Adhuc [illegible] remanet [illegible] quod [illegible]

vel [illegible] vel obsequio, quod [illegible] simoniacum iudicari electum et ordinatum [illegible] in quibus [illegible]

[illegible] de Simonia [illegible] rogans humiliter [illegible] admit[illegible]

ex capitulo [illegible] 122. [illegible] quia [illegible]

[illegible] = Hoc [illegible] valde [illegible] apud antiquos, [illegible]

decidant [illegible] ut [illegible] Cardinalis [illegible] in [illegible]

Suarez [illegible] de Simonia cap. [illegible] ubi [illegible] refert: Verum [illegible]

nia Pontificia [illegible] inter se [illegible]

[illegible]

vel sunt [illegible] italicum [illegible] adest. [illegible]

[illegible] Simonia [illegible] et electus [illegible]

aliquid adest [illegible] intelligitur [illegible] spiritualis [illegible] Simonia [illegible] temporale, et

[illegible] Pater Suarez [illegible]

[illegible] ubi [illegible] quando [illegible]

[illegible] alij [illegible] =

n.o 25.

2.o [illegible] 3.o [illegible]

[illegible] de elect. [illegible]

[illegible] Cleri [illegible] eligit [illegible]

Colligitur [illegible] ad Vacca [illegible] ad [illegible]

[illegible]

[illegible]

[illegible] populorum [illegible] ex anno 340 [illegible]

[illegible]

[illegible]

[illegible] in Concilio [illegible] anno 340 [illegible]

[illegible] 2.o [illegible]

[illegible] quod de re spirituali [illegible] cap. [illegible]

[illegible]

Innocent. [illegible]

[illegible]

[illegible] n.o 37. [illegible] =

n.o 26.

[illegible]

[illegible] vel [illegible]

[illegible]

[illegible]

[illegible] 3. de [illegible] n.o 34. [illegible]

[illegible] =

[illegible] Barbosa [illegible] n.o 27. [illegible]

[illegible]

[illegible] Barbosa [illegible] ad [illegible] cap. [illegible]

n.o 27.

3.o [illegible]

[illegible]

[illegible]

[illegible] 340 [illegible]

[illegible]

[illegible]

[illegible]

[illegible] ordinator [illegible] Consecrati sicut licet [illegible]
[illegible] vel [illegible] tradit hanc [illegible] Barbosa [illegible] offert [illegible]
[illegible]
[illegible] Cleri [illegible]
[illegible]
[illegible]
[illegible] 1. 6. [illegible] 2. [illegible] seqq. =

n. 28.

[illegible] nihil enim [illegible] Communionis [illegible]
[illegible]
[illegible]
[illegible]
[illegible] Laico communiones [illegible] Clerici [illegible]
[illegible]
[illegible] Clerici [illegible] laica [illegible] Clericali [illegible]
[illegible] Clerici [illegible]
[illegible] Bellarminus [illegible]
[illegible] Baronius [illegible]
[illegible] Clericali [illegible] Laici [illegible]
[illegible]
[illegible] laica [illegible]
[illegible] Concilio [illegible]
[illegible] =

n. 20.

[illegible]
[illegible]
[illegible] Clericis [illegible]
[illegible]
[illegible] Societate [illegible]
[illegible] Ecclesiastica [illegible]
[illegible]
[illegible] Clerici [illegible]
[illegible] Clericorum [illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible] Societate Clericorum [illegible]
[illegible] Societatis [illegible]
[illegible] Ecclesiastici [illegible] Concilij [illegible]
[illegible]
[illegible]
[illegible] Societatis [illegible] =

[illegible] Clerici [illegible]
[illegible] Societas [illegible] Canones [illegible]
[illegible] Formata Primatis [illegible] Clerico [illegible] Formata
[illegible] Formatis [illegible]
[illegible] Societatis [illegible] Clericali [illegible] Ecclesiastica [illegible]
[illegible] Clericorum [illegible]
[illegible]
[illegible] Clerici [illegible]
[illegible]
[illegible]

quo tempore [illegible] fuisset [illegible], postea [illegible] adversiones [illegible]
[illegible] haberet, quapropter peregrinis omnino [illegible] Clericalis admittebantur [illegible]
[illegible] Clerici [illegible] Laicis erat [illegible]
[illegible] Ecclesia [illegible]

Ex quibus verbis [illegible] ad [illegible]
[illegible] Clericis [illegible] peregrinis [illegible]
fuerant [illegible] Clerici habebant [illegible]
[illegible] Concilio Carthaginensi [illegible]
[illegible] Canonem [illegible]
[illegible] peregrinationem [illegible]
[illegible]
[illegible]
[illegible] Clericis, et Laicis [illegible]
[illegible]
[illegible] Concilio [illegible]
[illegible] anathematis [illegible]

[illegible]
Denique Clericorum [illegible]
[illegible]
[illegible]
[illegible]
[illegible]

[illegible]

[illegible] sequitur altera [illegible]

[illegible]

n.º 1. [illegible] Gregorio [illegible]
Decretalibus [illegible]
[illegible] Decretalium [illegible]
[illegible] Beati Gregorii [illegible]
[illegible]
[illegible] Oratorii Sancti [illegible]
[illegible]
[illegible]
[illegible]
[illegible] Ex quibus [illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]

Ex quo [illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]

[illegible] reverteret [illegible] Lambertinus [illegible] 6. augusti [illegible] 26. [illegible] =

n.o 19

[illegible] dubitari [illegible] decisionibus [illegible]

[illegible] debeat [illegible] Apostolica [illegible]

[illegible] duplicis [illegible] opinionis, altera negativa, altera affirmativa [illegible]

27. [illegible] 3. [illegible] =

negativa [illegible] Apostolicam [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] Nicolaus [illegible] 12. [illegible]

[illegible] =

n.o 20

[illegible]

7. [illegible] 17. [illegible] 44. [illegible]

[illegible] 28. [illegible]

[illegible] 22. [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] 45. [illegible]

[illegible]

n.o 21

[illegible]

[illegible]

[illegible] Legato Apostolico [illegible]

[illegible] Abbates [illegible] exempti [illegible]

[illegible] confirmationem accipiebant [illegible]

[illegible] Abbates [illegible] exempti [illegible]

[illegible] debeat [illegible]

[illegible] habeat [illegible]

[illegible] Summo Pontifice [illegible]

[illegible] 9 [illegible]

[illegible]

[illegible] confirmati [illegible]

[illegible] Lambertinus [illegible] 6. aug. [illegible] =

[illegible] Suffraganeus [illegible]

[illegible]

[illegible] Abbatis [illegible]

[illegible] Lambertinus [illegible]

[illegible]

[illegible] ab electione [illegible] Abbas [illegible]

[illegible] 6. [illegible]

[illegible] 2. [illegible] 26 [illegible]

[illegible] a Sede Apostolica [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

ut manifeste [illegible] in [illegible]

art. [illegible] 2. [illegible] [illegible]

[illegible]

Terna [illegible] libet [illegible] vel [illegible]

[illegible]

[illegible]

[illegible] ad regimen animarum [illegible]

[illegible] 47 [illegible] cap. [illegible] 24 [illegible]

[illegible]

+

Relectio ad Cap. Super eo. 12. de electione e electi potest. lib. 1. tit. 6. Schedas 7.ª

Relectio ad textum in cap. Super eo 22. de electione, et electi potestate.

1 Succedit nunc Nostri Clementis tertij Constitutio, quae refertur in cap. Super eo 22. de elect. et electi potest. in cuius explicat. ad textum observantes ordinem ab ipsa exordimur speciem quae ita potest fingi. Destituta aliqua ecclesia praelato suo electores in unum convenientes Titium v.g. praedictae ecclesiae praelatum nominaverunt, et elegerunt, cuius quidem electio indistincte fuit cassata; et sic electus ab illa praelatura fuit reiectus. postmodum ipse ille, qui electus, et repulsus fuerat, ad regimen alterius ecclesiae fuit designatus ... dubium ortum an haec 2a electio deberet confirmari; rationem dubitandi praestabat quod electus fuerat semel reprobatus, et sic quod non posset iterum eligi. quo dubio non obstante ad interrogata respondit noster Clemens 3us, aut inquit prior electio fuit cassata propter electionis modum, quoniam v. aliqua defecerunt, quae ad huiusmodi qualitatem sunt necessaria et tunc 2a electio illius, qui prius fuerat electus, et reprobatus confirmanda est. Si vero non electionis modo, sed vitio personae prima electio fuerit annulata, et secunda, et ulteriores, si de facto fiant, sunt annullandae; confirmari quae non debent ex ... inferius assignanda. =

2 Ex qua facti specie sequens ... communiter ab interpretibus ex textu deduci solet. Is cuius electio fuit cassata non vitio personae, sed electionis modo iterum eligi potest, secus si vitio personae. quae ... probat ... in c. ... diligentia 5. cap. consideravimus 10, cap. qualiter 17. cap. cum nobis 19. cap. innotuit 20, cap. cum inter canonicos 21. cap. cum Vintonienses eccl. 25. cap. cum causam 26. cap. generali ... cum aliis ... de electione probat ... inter ... 11. de excessibus praelatorum, ... et illustrant, ... et ... Calamhanensem ... post Abbatem, Innocentium, Abbatem, Felinum, Joannem Andream, et reliquos antiquiores, Petrus Gregorius in tractatu de electione cap. 9. n. 26. Gonzalez ad ... cancelariae ... 15. n. 86. ... ad nostrum textum pag. 110; Antonius Augustinus in 2a Collectione Decretalium ... 3. cap. ... Augustinus Barbosa in Collectaneis ad hunc nostrum textum. =

Verum ut plane, planeque Clementem nostrum explicemus ambigendi ... subjicere operae pretium erit, et frustra, vel nonnihil videtur Clemens declarasse eum qui semel electus fuit, et vitio aliquo personali ... iterum eligi non posse; ... potest quod qui vitium electionis ... purgationis efficiatur capax, qui semel fuerat electus, et electus tunc ... patiebatur, illud purget, ... et tunc posse iterum eligi probat elegans textus in cap. cum inter canonicos 21. ... dummodo ... immineat obiectio; quod non recte indistincte asseruit Clemens 3us eum cuius electio semel vitio personae cassata fuit, iterum eligi non posse. =

3 Augetur hoc dubium rationi ... namque ... nostri certissima regula est neminem absque culpa puniendum esse, ex textu ... Joannes ... cap. ... de homicidio ... cap. ... 38, 56. q. 7. regula sine culpa de R.J. in 6. cum aliis congestis ... sine culpa: at plurimi contingit, ut quis vitium ... personale absque culpa sua, quale est vitium ... in cap. ... de filiis presbyterorum, et alia quam plurima; in quibus ... nullam committant culpam eligendi, ... personale ... postmodum ... non sunt ab electione ... vitio repelli debent ... personale adversus id quod noster Clemens asserit. =

Denique ... quod docemur ...

n. 4

Cuius electio fuit cassata ... electionis modo iterum recte eligi posse ... electionis ... textus in cap. consideravimus 10 ... de elect. ubi duo promoventur electi ... electionem ... fuerunt cassata, quod firmat ... Alexander 3us ... electoribus, ut alterum eligant, et ... electionis modo ... ut in aliis ecclesiis possint promoveri; quod ... Cuius electio fuit cassata vitio personae iterum eligi non potest; imo ... cuius electio ... fuit annullata iterum eligi non potest ... in altera ... dignitatem, ut constat ex ... in cap. consideravimus ... et ... aliis ... promoveri ... docetur. =

n.º 3.

Rebus difficultatibus non obstantibus, nec quidquam mei convenient[illegible] dicentibus decendis et verissimam esse veritatem [illegible] ff. S. cum cuius electio fuit cassata vitio servorum et [illegible] non potest. Si vero talis electio cassetur per relectionis modus postmodus eligi recte posse; ad cuius [illegible] veram explanationem et ad hoc ut melius rationem decidendi assignare possimus sequentia animadvertenda tanquam maxime necessaria sunt. Itaque in primis sciendum est electionis considerari posse aut rerum, aut personarum, aut actionum; nec est [illegible] sermo tantum [illegible] de elect. personarum ad benefficia, alliaque dignitates promovendarum. Cuius electionis definitio licet varia colligat ab interpretibus assignari, ut constat ex traditis a P.º Greg. [illegible] de elect. c. 1. n.º 1. et ab [illegible] in summa [illegible] §. quid sit electio n. 1. tamen verior, et omnium definitio hoc est, quod electio sit [illegible] ad dignitatem aliquam [illegible] vacantis canonice facta vocatio aut [illegible] superioris confirmanda; quam definitionem [illegible] antiquiores scribentes ad hunc tit. de elect. prosequuntur, et declarat [illegible] Valensis in par[illegible] ad d. [illegible] 3. n.º 3. cum duobus sequentibus. Cuius electionis triplex species est, ut constat ex [illegible] 42. cap. [illegible] 45. et ex aliis [illegible] eiusdem tituli de elect. Prima electionis species est, quae fit per scrutinium, 2.ª quae per compromissum celebratur; 3.ª quae per inspirationem Spiritus Sancti fit; quas breviter, et sigilatim percurramus oportet. Itaque electio per scrutinium tunc fieri dicitur, quando secrete, sigilatim, et seorsum uniuscuiusque eligentium voluntas inquiritur, et ex illis qui electionibus interesse debent nominantur qui vota [illegible] excipiant libere, et nulla conditione adiecta, [illegible] [illegible] in cap. cum terra 14. cap. [illegible] 42. h. tit. de elect. cap. 2. eodem tit. in 6.º et postmodum ad hoc nominati in scripturam redigentes scrutinium publicent, ad hoc ut ille electus intelligatur in quo omnes, vel maior, et sanior pars consentit; quippe si per minimos capituli [illegible] electio fiat nec tenet, nec per subsequentes consensum ratificari [illegible] cap. auditis 29. h. tit. et facta publicatione hoc est, publicato scrutinio mutatio suffragiorum omnibus denegatur cap. [illegible] scrutinio 40. h. tit. de electione. Cuius electionis per scrutinium forma refertur in cap. Cum ana [illegible] 50 de elect. = Secunda electionis species est quae per compromissum celebratur, et tunc fit, cum per omnes eos ad quos spectat electio [illegible] nominantur plures electores, unusve, qui vice eorum [illegible], et vi[illegible] illorum consensus eligant eum quem digniorem, aptiorem ad dignitatem, de qua agitur iudicaverint, quae elect. celebrata nisi canonice constat imp[illegible], electus per [illegible] approbandus, confirmandus est cap. [illegible] 50. et cap. quia [illegible] h. tit. de elect. Vel nisi formam compromissi electores excedant; nam tunc electus [illegible] cap. cum dilectus 32. h. tit. et licet in aliis collegii rebus ministrandis, et exercendis maioris partis sufficiat consensus, tamen in elect. per compromissum celebranda omnium consensus requiritur adeo ut si unius tantum desficiat, compromissum cesset, cap. [illegible] [illegible] qui vice omnium tit. nec sine [illegible], nam ex compromisso [illegible] voluntatis, et ad omnes expectent, ab omnibus debent approbari ex regula [illegible] in cap. quod omnes tangit de R. iuris in 6. Cuius electionis formulare fertur in cap. cum expediat 29 de elect. in 6. = Posterior electionis species quae per inspirationem divinam fit, est quae illa, quae [illegible] ut quis eligatur ab omnibus unanimiter, et velut inspirante consensu absque aliqua [illegible] ita divino spiritu instigante [illegible] in d. cap. quia [illegible] 42. h. tit. Cuius electionis per divinam inspirationem facta nonnulla [illegible] exempla, ut [illegible] in divo Nicolao, qui cum laicus esset [illegible] in episcopum fuit electus, et in divo Ambrosio, qui adhuc in baptismatis [illegible] fuit electus; et [illegible] a [illegible] [illegible] ducem fuisse electum, Saulem regem nominatum et plures [illegible] ab [illegible] ascendisse; et hanc elect. fieri solere quod [illegible] certum est, ut constat ex d. cap. quia [illegible]; tempore enim apostolorum electi fuerunt septem diaconi, et maiores [illegible] elegerunt Paulum, et Barnabam, Silam, et Iudam legatos ut constat ex actibus Apost. c. 6. et 15. = In quibus tribus electionis speciebus illud observandum esse [illegible] Concilium Basiliense, ut [illegible] ad quos pertinet electio adve[illegible] [illegible] electionis conveniant in loco missam de Spiritu Sancto audituri, [illegible] ut [illegible] qualis sit aptior elect. [illegible] amplius contriti, et confessi, ut devotius ad electionem procedant, reverenter [illegible] suscipiant [illegible] manibus suis, qui [illegible] vel [illegible] [illegible] in manibus quibus [illegible] immediate electurus [illegible] electuros [illegible], et aptiorem; quarum trium electionum formulas, et cetera omnia quae ad [illegible] expectant [illegible] P. Greg. [illegible] de elect. cap. 3. per totum, Suarez 4.º to. de relig. [illegible] 2. de religiosis cap. 5. n.º 1. cum sequentibus [illegible] [illegible] [illegible] declarat in d. cap. quia [illegible] 42. h. tit. de electione [illegible] institutionum moralium to. 6. cap. 14. 91. et aliis plures [illegible] =

Sinem

38

n.º 6

Verum hac tria electionis genera, hoc est per scrutinium, compromissum, et inspiratione celebrata tantum locum habent, et servanda sunt in illorum prelatorum electionibus, quorum morte ecclesia viduata remanent, ut constat ex dicto cap. quia propter 42. in electionibus vero canonicorum, et aliorum inferiorum sive ecclesiae sint cathedrales sive collegiatae dignitatum, vel beneficiatorum nulla ex predictis electionibus necessaria est, quippe in illis capituli, et superiorum authoritas sufficit, cap. si cui 23. de elect. in 6. et nulla ex predictis electionibus celebrari potest usquequo ecclesia pastore suo viduata sit, quippe beneficia viventis alteri dari non possunt, cap. 2. et 3. de concessione prebendae, et antequam agatur de electione, sepeliendus est prelatus defunctus; aliter facta electio non valebit, cap. bonae memoriae 36. cunctaque [illegible] tradit Lambertinus de iure patronatus lib. 2. 2. p. q. 2. principali n.º 1. cum tribus de quibus quinimmo [illegible] doctrinis adducit. Quo significat electionis, et sepulto electores convenire debent in capitulo ibique diem electionis statuere, et eam absentibus per litteras intimare, et denique locum predictae electioni designent, ea quae sollemniter faciant ex dictis in dicto cap. quia propter §. electiones hoc ordine. = Quibus electionum speciebus et aliae nonnullae accedunt, interque nonnimus viget electio per sortes; cuius electionis modus inter sanctos viros probatus fuit, siquidem D. Mathias per sortes in Apostolatum electus fuit ut constat act. 1. circa fin. et sors cecidit super Mathiam; [illegible] veteri [illegible] judicia ambigua per sortes determinabantur, ut constat ex Josue cap. 7. item 3. et 1.º Regum cap. 14. et [illegible] sitte; sorte dirimi solere probant [illegible] l. in [illegible] 13. iuncta l. ad cum annos 14. ff. de aeditiis, l. si quis sunt 5. ff. familiae erciscundae l. generaliter 24. §. quid [illegible] 17. ff. de fideicommissariis l. bertatibus l. [illegible] C. comunia de legatis et sancimus itaque in omnibus huiusmodi casibus rei iudicem feriunt esse, et sortem [illegible] alter cantes adhibendas §. optionis [illegible] de legatis. Quae sortilegal electio ob vitanda pericula et damna, quae inde provenire poterant prohibita fuit per Honorium 3. in cap. fin. de sortilegiis, et [illegible] [illegible] in cap. non statim, et per eundem in cap. non exemplo Mathiae q. 26. q. 2. Cuius sortilegae electionis prohibitio [illegible] [illegible], et caetera ad [illegible] pertinentia prosequuntur Thomas Sanchez lib. 2. in Decalogum cap. 38. Suarez 1.º de relig. [illegible] [illegible] [illegible] [illegible] [illegible] idem [illegible] ad [illegible] de elect. cap. 3. [illegible] qui [illegible] apud Athenienses, Latinos, Siracusanos, et alias nationes varia, ac diversa electionis genera [illegible] libenter in nulla prosequerer, si alia propiora me non vocarent =

n.º 7.

Rursus sciendus est pro tempore varietatem eligendi immutatam fuisse itaque si de Pontifice quaeratur vidimus Deum Dominum nostrum Jesum Christum elegisse sibi discipulos, et ex illis apostolos Christi [illegible] Marci cap. 3. cum similibus, inter quos elegit D. Petrum Pontificemque nominavit, cui omnem [illegible] concessit Christus illud Tu es Petrus, et super hanc petram aedificabo ecclesiam meam, et tibi dabo claves regni caelorum. Cumque D. Petrus in Pontificia fuisset constitutus dignitate in exordio ecclesiae nominavit sibi 24 coadiutores, et [illegible] [illegible], cum quibus omnia ardua negotia ecclesiae determinaret, et simul ordinavit, ut predicti essent electores summi Pontificis, et ut ex uno illorum fieret electio Christiana [illegible] oportebat 3. 79 dist. ex traditione Barbosam de iure ecclesiastico [illegible] 1. lib. 1. cap. 2. de summo Pontifice n.º 46. verumlicet tunc temporis [illegible], ut in Pontificem eligendus esset de collegio, tamen si al[illegible] [illegible] ter extraneus eligeretur electio non irritabatur, cuius rei exemplum Celestinus est, qui cum esset laicus ex eremo fuit in Pontificem electus, et Greg. 7. 10 ex Archidiacono, et Eugenius 3. ex simplici Abbate, ita tradit Sebastianus Caesar[illegible] [illegible] in cap. perlectis 25. de dist. [illegible] de Romano Pontifice q. 6. n. 11. Soto lib. 4. de iust. et iure q. 6. a. 2. ad 5. Cenedo in [illegible] ad [illegible] decretum collectio [illegible] [illegible] oportebat 79 dist. ubi plures alios refert. Postea post tempora silvestri [illegible] Pontificia pertinuit electio Pontificis ad Clerum, et postmodum ad Clerum cum approbatione Imperatoris, ut constat ex quamplurimis decisionibus relatis in 63 dist. Deinde extitit Nicolai 2., qui gubernavit ecclesiam ex anno 1058 usque ad annum 1061, et ex authoritate Gregorii 7., qui ecclesiam rexit ex anno 1073 usque ad annum 1080 ad seditiones vitandas fuit statutum ut electio Pontificis ad collegium Cardinalium pertinuisset principue, et ad postea Clerus, et populus [illegible] nam licet Cardinales tempore Evaristi Papae fuissent creati, tamen collegium eorum in [illegible], nisi ex tempore [illegible] tri Pontificis cap. [illegible] 2. q. 5. quo tempore electio Pontificis privative ad Cardinales [illegible] usque ad tempora Nicolai 2.i Denique Alexander 3. in Concilio Lateranensi 11. Generali relato in cap. licet 6. de elect. [illegible] ut electio Pontificis solum fieret a Cardinalibus [illegible] Cleri, et populi, et quod electio fieri debeat a duabus partibus Cardinalium quam postea confirmavit Greg. 10 in Concilio Lugdunensi [illegible]

[Left margin, beside n.º 7: [illegible] in c. in nomine Domini 23. dist.]

Vid. Periculis de elect. lib. 6. et Semino 57 in Concilio Viennensi 15 generali relato in Clementina Romani de [illegible] ita tradit Barbosa loco citato n.o 49. =

n.o 8

Hac Dicta sufficiant de variet[ate] rerum circa Electionem Summi Pontificis: nunc examinandum est, ad quos electio episcoporum expectet, asserendum pro temporum varietate [illegible] eligendi commutatum fuisse. Primis itaque temporibus electio eorum ex authoritate Divina ad Petrum pertinuit c. 1. et 2. Postea alliud tempus advenit, in quo Episcopi a toto Clero eligebantur de consensu populi cap. [illegible] 11. cum seqq. 63 distinct. et a Metropolitano confirmabantur, et tribus episcopis provincialibus presentibus consecrabatur cap. [illegible] 4. 63 dist. Sed cum multoties populus nominasset aclamat[ione] tantum sine inspectione, merito cautum fuit, ut deinceps populus dictis [illegible] nibus non interesset cap. non est permittendum 6. cap. non licet populo 7. 63 d. = Deinceps ex [illegible] concessum fuit [illegible] Christianis a Sede Apostolica ut in suis provinciis episcopos nominarent obiaes traditas a Gratiano in cap. in Sinodo 5. [illegible] bus hac [illegible] Regibus Hispanicis concessum esse docet [illegible] in cap. cum longe hac dist. licet postea [illegible] ut Principes episcopos nominarent [illegible] 63 d. = Rursus hic electio permissa fuit Canonicis de [illegible] tantum Ecclesiarum Cathedralium cap. congregato 2. 16. [illegible] cap. 1. cap. cum terra 11. cap. cum in cunctis, cap. quia [illegible] 42. cap. cum in [illegible] cap. humana [illegible] Gene[ralis] de electione, cap. cum lecta substrina de causa possessionis et proprietatis. Denique alliud advenit tempus quo Sedi Apostolicae electio [illegible] reservata fuit ex regula Cancelariae, et extravaganti ad Regimen de prebendis, et dignitatibus [illegible], quodideo statutum fuit, quia Canonici privilegio male utebantur. = Verum hodie noster [illegible] jus [illegible] Dignitates indicat, quod non procedit ex vi prescriptionis, quia omnes Laici incapaces sunt jura spiritualia possidendi cap. [illegible] de prescriptionibus, sed potius ex vi privilegiis a Sede Apostolica concessi, ut censtat [illegible] in cap. cum longe 63 dist. tradit Balboa in d. cap. cum lecta substrina de causa possessionis et proprietatis n.o 46. Sequuntur [illegible] tionibus videndus Azor 2. p. inst. moral. lib. 4. cap. 2. q. 4. Petrus Gregorius ad [illegible] de elect. cap. 5. [illegible] Vazquez [illegible] 44. et [illegible] Cobb. in [illegible] possessorio [illegible] 5. 10. n. 5. [illegible] olim, et [illegible] ubi [illegible] in d. cap. cum longe 63 dist.

[margin: Deinde alliud fuit tempus, quo Canonicis, et religiosis [illegible] electio [illegible] 35. 63 d.]

n.o 9

Denique ut [illegible] accedamus [illegible] animadvertimus [illegible]

Plures [illegible] Canonico [illegible] qui [illegible] quarum [illegible] ita ne in primis eligi possunt qui litteras Summi Pontificis falsificant [illegible] in cap. ad falsariorum de crimine falsi [illegible], nam falsarii crimen grave, et detestabile scelus esse nemo ignorat, siquidem et humana, et [illegible] magis et divina laeditur Maiestas, ob quod plures in [illegible] adversus eos sunt constitutae poenae, Sequitur in d. cap. ad falsariorum [illegible] bentes ad [illegible] Vide de delictis cap. [illegible] Suarez de censuris [illegible] Sect. 2. n.o 44. et seqq. 69. Menochius de recuperandum n.o 347. remedio 1. Salcedo in praxi Canonica c. 117. [illegible] ubi eleganter [illegible] prosequitur [illegible] = [illegible] eligi, nec possunt, nec debent Sacrilegi probant expressa in cap. Venerabilis 34. de elect., cap. miror 8. 17. q. 4. quemadmodum ab aliis legitimis actibus excluduntur [illegible] in cap. nulli 31. 3. q. 4. [illegible] Sacrilegium committentes Venerationes Sacris locis debitas denegant, et [illegible], indignum namque foret ad [illegible] regimen admitti eos, qui [illegible] sunt [illegible] latores, sequeris [illegible] videndus Suarez [illegible] de relig. lib. 3. de reverentia locis Sacris debita cap. 9 cum seqq. Deinde eligendi non sunt interdicti, et suspensi cap. cum inter. 8. 16. de elect., cap. 1. [illegible] postulat [illegible] prelatorum, quia [illegible] interdictus et suspensus ab [illegible] communione arcetur, et ideo eligi non debet, ut alios qui [illegible] membra [illegible] ita tradit Lambertinus de jure patronatus lib. 2. p. 2. q. 2. ar. 3. per totum. Et Denique, ut uno [illegible] comprehendam eligi non potest ille qui propter delictum ab ipso perpetratum, vel propter vitium aliquod personale semel electus, et electus fuit, ut [illegible] in d. [illegible] confirmat. = Plures alii in jure inveniuntur, qui nec possunt, nec debent eligi, quorum nonnulli referuntur in d. cap. Venerabilis de elect., de quibus omnibus videndus Petrus Greg. ad [illegible] de elect. c. 5. cum quinque sequentibus; Barbosa de potest. episc. 1. p. lib. 3. cap. 2. n.o 67 cum pluribus sequentibus, qui plures authores congerit hanc rem dilucide [illegible] tractantes, et prosequentes explicat [illegible] qui in d. cap. Venerabilis 34. de elect. continentur. =

n. 10

Quibus ita [illegible] nostri [illegible] inteligentia, et dilucidat [illegible] apparet [illegible] verissimam esse, [illegible] cuius electio vitio personae cassata fuit iterum eligi [illegible] secus vero [illegible] electionis forma [illegible], nam tunc eligi rite potest; cuius [illegible] ratio [illegible] solet reddi ab antiquioribus [illegible]; et quod ille qui propter vitium personae fuit electus, et electus [illegible] non eligatur, [illegible] los; [illegible] vitium concernens personam, [illegible], et sequitur, dicenti [illegible] solet [illegible] cap.

cum

cap. Vitæ turpem 16. 1. q. 2. ubi Cito turpem dequirit supra mercedis, & pecunia corpus, & animum quo male quis ille maculat. tradit Abbas Panormit. in d. n. 10 hic p. 2. = Accedit & huic rationi sequens consideratio, nam oportet in prælatis eligendis sine crimine esse ex D. Pauli Doctrina ad Titum c. 1. ubi & ad Thimoteum c. 3. ubi est desiderat talis prælatus vires sensibilis esse, hoc est qui nulla delicti conscientia mordeatur, ut tradit D. Hieronimus cuius auctoritas refertur in cap. fin. 25. dist. et sequitur ex Trovilla ubi quomodo exerceat officium, & reliquos Clericos ad ... producit § Si quis antem talis: Prælati enim suos se expurgare debent ab his, a quibus gravatos sentiunt bonum opinione, & fama, c. fin. de testibus, Sirenum 6. cum vulgatis C. de procuratoribus, quippe ut scripsit ... in cap. Omnipotens de accusat. ualde grave est, ut de quo tanta nunc ... ante diffusius ... horreretur, sicque ante expurgationem criminis illatorum ... dignitatem appetere non debere tradit Aluerius in l. unica C. de reis postulat. ... 10. Papianus l. libertus § in questionibus ff. ad Municipalem, cum eleganter tradit D. Greg. addit ... de elect. c. 9. n. 2. 4. totum = Quoad vero ille

casus electio cassata ... aliquem defectum formæ ... eum iterum eligi ex ... descendit, nam ... hoc eligi ... in statu, qui aliquod ... vitium personæ attingens; verum dispensatione ... electi promotio ... impediendam est, quippe puniuntur homines ... electiones ... alienam culpam aliquam propriam quod permittit utriusque iuris testimonia quam ... decidendi tradit Abbas Panormit. ... n. 2. =

n. 12. Nec tunc ... obstant dubitandi rationes ... adducte; Nam 1ª

n. 13. deducta ex cap. Humiliter canonicos 21 h. tit. ex quo probabamus eum, cuius electio cassata fuit propter vitium personæ iterum posse eligi, hoc quod vitium ... purgaretur, et sic videbatur non recte clericus nostri ... in ... progenitores ... dicendo ... Humiliter canonicos non loqui de aliquo vitio personali, quale est vitium illegitimitatis vel aliud simile, sed potius de quodam morbo epileptico, hoc est, ex quodam humore melancolico ... se ... possidente. Verum qui ... semel, semper præsumatur ... ... morbo ... fuerit ... iterum eligi recte poterit quo casu loquitur, ... in d. cap. Humiliter canonicos ... adductis ... vitiosus semper præsumatur malus ex cap. semel de R. I. in 6. cum vulgatis, & ubicumque quis inveniatur illud vitium cum sequatur mirum non est quod iterum eligi nequeat, & hoc casu loquitur noster textus. = Nec magis obstat secunda dubitandi

n. 14. rationis quo probabamus neminem absque culpa puniendum esse, ... leprosis, qui fortasse nullam culpam commisit in ... eiscendo recte iterum posse eligi, & si semel electus, ... fuerit; nam dicendum est quod licet verum sit neminem absque culpa ... puniendum esse, tamen ... puniendum ... sine culpa de R. I. in 6. Sine culpa nisi ... causa ... est aliquis puniendus. Verum est leprosum ... de ... iterum nec unquam eligi posse ... cap. purgatis c. 2. ... de clerico ægrotante. ... leprosi, qui ... semper sunt admittendi, qui ... omnibus virtutibus ... præcelant, tu...

+ Cum te q. in cap. fin. cum vulgatis de ætate, et qualit. et ord. præficiendorum tradit D. Greg. de benef. ... cap. 17. per totum. =

n. 15 Denique ... obstat postrema dubitandi ... consideratione ... quo probabamus eum, cuius elect. fuit cassata ... electionis modi, eligi iterum non ... generale ... posse ... eligi ... defectum formæ electio fuit annullata, hanc difficultatem ... antiqui ... inter quos Ioannes ... Andreas ... fugiat ... electos ... cap. ... rite ... in qua electio fuit annullata iterum ... tantum. Verum ... prohibitionis ... reddat, ... non est. Quare dicendum est verum esse eum cuius electio fuit annullata propter defectum formæ recte ... eligi posse ... ... & ... descendit. Nec ... obstat ... cap. ... ; nam certum est ... posse ... propter vitandum scandalum, ut qui ... quæ ... eligatur, licet ... nullum ... propter ... inconvenientis ... propter vitandum scandalum ... debent, ... multa ... omittenda ... scandala ... omitti ... peccato ... ut cum ... Cum te ... de ... bend. et dignit. ... qui scandalizaverit ... ibi tradit ... in ... electione ... 5. ... Abbas Panormit. in ... Antonium ... & alii. =

in casu ... eligitur ... in cap. 20. h. tit. ... adductum.

n. 12.

Ex quibus omnibus, et quippe ex ita decidendi rac[ione] cognitus [illegible] ad celebre Innocentii 3.i Decreti relatum in cap. Super his 16. de accusationibus, ubi proponitur quandam electum in episcopum [illegible] nonnulla impedimenta opponebant canonici, ob quod talis electio vitiaretur, videlicet quod esset famae malae et criminosus, quod matrimonium [illegible] et cum vidua, de qua re consultus Innocentius, ipsis prius proponens tribus modis crimen opponi posse [illegible] denuntiando, excipiendo, accusando, sequentia profert verba, Si illum opponentur ut quis a promotione officii vel beneficii excludatur, quia ante confirmationem obiicitur, non cogitur quisquam inscribere, quia crimen hoc modo probatum impedit promovendum, sed non deiicit iam promotum, ex quibus aperte colligitur quod quando crimen probatur per viam exceptionis [illegible] electum, talis electus quantumvis vitiosus inveniatur non est repellendus ab obtentione beneficii, licet a confirmatione repellatur, quod ille cuius electio cassata fuit, aut cassari potuit ob vitium criminis [illegible] crimen obiecti probati incapax evidenter non efficitur, ut obtinere possit beneficium adversus ea quae in [illegible] proponitur. Difficultatem hanc tetigit Abbas Panormitanus in [illegible] num. 3. cum sequentibus, ubi plures [illegible] Doctores refert intelectus, quos apud ipsum curiosus varietatis videre poterit, inter quos magis placet dicere nostrum textum loqui in dissimili casu, et loquitur in dicto cap. Super his de accusationibus, noster vero [illegible] electio fuit cassata [illegible] [illegible] eligi non posse, hoc est ut posse de novo aliquam adipisci dignitatem, vel de dignitatibus antea obtentis [illegible] [illegible] in dicto cap. Super his loquitur [illegible], quo aliquem obtinenti beneficium fuit crimen obiectum per modum exceptionis, et [illegible] asserit hunc non esse privandum ab obtentione beneficii prius habiti, et in quo tempore habendi constitutus fuerat, et [illegible] promotionem esse reiiciendum, [illegible] resolutio colligitur ex [illegible] dicti cap. Super his [illegible] quod crimen hoc modo probatum impedit promovendum, sed non deiicit iam promotum, tradit Abbas Panormitanus loco citato. = Verum licet

n.o 13.

[illegible] et doctrina verissima sit, tamen aliquae insurgunt adversus eam difficultates. Prima nascitur ex eo quod crimen probatum per viam exceptionis non infamat eum adversus quem obiicitur, ut probat textus in cap. Cum dilectus 2. de [illegible] cognitionis, [illegible] [illegible] de his qui notantur infamia; quod in specie textus in dicto cap. Super his ille in quem obiectum [illegible] per viam exceptionis [illegible] cum infamis [illegible] [illegible] [illegible] habiti, immo nec consequi cuiuslibet alterius dignitatis argumento a [illegible] deducto ex regula infamibus [illegible] [illegible] difficultas facile diluitur si animadvertamus duplicem [illegible] considerari infamiam, alteram iuris, alteram [illegible] [illegible] quod crimina opponuntur per viam exceptionis, aliquem electum infamie iuris [illegible] non notatur, quo casu [illegible] textus in dicto cap. 2. de [illegible] cognitionis, [illegible] [illegible] de his qui notantur infamia in contrarium adducti; at vero [illegible] facti notari electum, contra quem fuit crimen obiectum per modum exceptionis certo certius est; [illegible] hoc casu loquitur [illegible] textus in cap. Super his, dum asserit electum [illegible] eligendum esse, quippe [illegible] quod [illegible] fuit [illegible] personae requisitas in [illegible] infamia facti laborat, quando iter eligendi opinio, quae in nullo debet vacillare, cap. Omnipotens 4. de accusat. cap. [illegible] Daniel [illegible] 81. dist. et haec infamia facti in tantum facit quod indignus muneribus ecclesiasticis [illegible] [illegible] [illegible] C. de dignitatibus lib. 10, l. 1. ubi omnes DD. [illegible] C. de [illegible] postulatis eodem lib. tradit [illegible] lib. 1. var. cap. 16. n.o [illegible] [illegible] [illegible] confirmatus facit quod infamatus infamia facti debet suspendi a beneficiis habitis, donec [illegible] purgat [illegible] [illegible] [illegible] [illegible] [illegible] purgat canonica, [illegible] multo fortius debet impediri [illegible] promotio, [illegible] [illegible] [illegible] admitti [illegible] cap. [illegible] [illegible] [illegible], tradit Panormitanus in [illegible] num. 4. =

Altera difficultas adversus praedicta [illegible] ex altera [illegible] Innocentii 3. [illegible] Decretali relata in cap. [illegible] de appellat. in his verbis; Si quid tamen [illegible] [illegible] exceptionis ad impediendum electionem, et confirmationem [illegible] [illegible] [illegible] [illegible] accusatus [illegible] [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] promovendi licentiam [illegible] negamus. ex quibus [illegible] manifeste deducitur, electum confirmatum [illegible] crimen in modum exceptionis; quod in specie textus in dicto cap. Super his cum crimen obiectum obsistere [illegible] [illegible], electus ille nec ab obtento beneficio nec ab obtinendo repellendus [illegible] [illegible] [illegible]. Cuius difficultatis [illegible] [illegible] [illegible] est observandum aut crimen [illegible] electus est, et crimen eo obiicitur quando [illegible] [illegible] [illegible] [illegible], [illegible] et tunc crimen per modum exceptionis [illegible] electus [illegible] loquitur textus in dicto cap. [illegible] de accusat. aut vero electus [illegible] confirmatus, et [illegible] [illegible] habet, tunc enim contra electum crimen obiici [illegible] per modum exceptionis, [illegible] habet ab [illegible] nisi [illegible] accusatus, [illegible], [illegible] [illegible] [illegible] [illegible] Panormitanus [illegible] [illegible] accusans [illegible], qui utrique hanc veritatem [illegible] tradit. =

n.° 15.

Innocentij 3i Decretum de quo in cap. innotuit 20 [illegible] de elect.

Rursus eiusdem decidendi erat in inferius interpretatio ad difficile ubi sequens proponitur species. Ecclesia Eboracensi destituta Pastore, Canonici eiusdem concorditer Magistrum M. Archidiaconum Eboracensem nepotem suum elegerunt, petieruntque confirmare ab Archiepiscopo, ad quem de communi antiquo Canonum iure electionis [illegible] spectabant, x.a [illegible] in cap. cum dilectus 32. hoc eodem tit. de elect. nunc vero postquam Pontifices per regulam Cancelariae sibi generaliter omnes electiones Patriarcales, Primaciales, Archiepiscopales, et Episcopales reservarunt, electionis confirmatio ab ipsis, non ab Archiepiscopis petenda est; rogabant itaque Archiepiscopum ut electum de Archidiacono Eboracensi factam confirmaret; ipse vero quia electus absens erat distulit confirmare, [illegible] certe [illegible] absentis [illegible] qualibet possit eligi absens, et inscius, non tamen debet, nisi prius consentiat, confirmari, ut docent [illegible] in cap. quam sit de elect. lib. 6. Dum Archiepiscopus electi desideraret adventum, electus, et [illegible] sui [illegible] illegitimo matrimonio non fuerat procreatus; nam ut constat ex [illegible] in libro [illegible] excussi [illegible] anno Domini 1587. Archidiaconus ille progenitus fuerat ex quodam milite, et ingenua muliere [illegible] atque ita ex patribus inter quos iure poterat [illegible] matrimonium; quam ob rem [illegible] electus [illegible] illegitimus [illegible] in quo tamen Apostolica Sedes dispensare poterat ut probatur arg. tex. in cap. nimis 18. de filijs presbiterorum [illegible] Archiepiscopus cognito [illegible] non iam tam differebat, quam debebat electum confirmare; [illegible] à Sede Apostolica [illegible] à qua in vero [illegible] electionis [illegible] confirmationis. Cumque haec omnia ad Sedem Apostolicam [illegible] fuissent quidam suffraganei Archiepiscopi Cantuariensis Summo Pontifici Inn.o 3.o significaverunt [illegible] [illegible] quod ipse electus confessus fuerat, et tunc [illegible] confitebatur; Superinde scribit Inn.us Cantuariensi Archiepiscopo [illegible] statuens quod quamvis Canon Concilij Lateranensis sub Alex.o 3.o celebrati anno Domini 1179. de quo in cap. cum in cunctis 7. hoc eodem tit. de elect. non legitime genitos adeo persequatur quod electionis de ipsis celebratas nullam esse decernat, non tamen potuit legem imponere successori; qua cum talibus prohiberetur dispensare [illegible] vulgata [illegible] quod [illegible] quod par in parem non habet imperium ut probat tex. in cap. non liceat Papae [illegible] [illegible] 12. q. 2. l. 3. et 4. ff. de arbitris [illegible] ille à quo [illegible] tempestivum ff. ad Trebell. et quanquam multa [illegible] suadere dispensatio [illegible] honestas morum, literarum scientia, [illegible] à quibusdam Cardinalibus [illegible] Pontifici [illegible] fama personae electi, quam in Scholis bene [illegible] experti fuerant, quibus [illegible] suffragabatur [illegible] electio, et humilis electi confessio; tamen [illegible] habito tractatu Pontifex intelligens, et [illegible] quod Ecclesia Eboracensis eundem Marcum Archidiaconum Eboracensem non postulaverat, ut debuerat, sed temere [illegible] [illegible] ipsum elegerat electionem celebratam auctoritate Canonis Lateranensis Concilij, de quo in d. cap. cum in cunctis, cassavit, irritamque, et inanem decrevit; [illegible] statutis [illegible] electionis imponens. Ecce [illegible] Pontifici Inn.o 3.o [illegible] et ad eam responsum [illegible] [illegible] narratum, [illegible] alienum [illegible] narrat, [illegible] narratum responsum [illegible] est. [illegible] ex his omnibus [illegible] electionis celebratae duplici ex capite cassari, et irritari. 1.o [illegible] defectum formae electionis, hoc est, quoniam electus fuerat qui [illegible] qui eligi non poterat, [illegible] 2.o [illegible] personae inhaerens, hoc est [illegible] illegitimitatis, de quo in eodem tit. et tamen in [illegible] casibus qui sunt idem, qui in [illegible] proponuntur, Pontifex tantum decipit quod talis electio cassetur pro tunc nulla facta mentione de futura electione in altera [illegible] ad diversas dignitates, [illegible] [illegible] utrumque casum [illegible] de similibus [illegible] electos, et electio quatenus asserit [illegible] cuius electio fuit cassata [illegible] defectum formae electionis [illegible] licet repellatur pro tunc, [illegible] cuius electio fuit cassata [illegible] personale nec tunc [illegible] remanere, nec ad alias dignitates [illegible] = [illegible] [illegible] valde [illegible] fuerit, [illegible] nulla [illegible] [illegible] si quid in [illegible] videtur, quare breviter dico [illegible] in d.o cap. innotuit [illegible] repugnare nam licet verum sit [illegible] cap. innotuit [illegible] impositum fuisse [illegible] et defectum formae electionis, et vitium personale adfuit, hoc debet [illegible] pro tunc, de futuris [illegible] cum sermo de illis [illegible] fuisset, non debuit ad ea respondere quia non [illegible] interrogatus fuerat de futuris electionibus [illegible] absque dubio respondisset Inn.us [illegible] ut [illegible] Clemens 8.o [illegible] concilianda [illegible]

n.° 16

Deinde [illegible] interpretatio ad [illegible] in cap. [illegible] [illegible] proponitur [illegible] Cisterciensi [illegible] [illegible] habuit, quam ob rem, nec ordinarium, nec [illegible] debebat [illegible] [illegible]

Canonici filius erat, atque ita Electionis accesserat, Pontifex Alex. 3. ex cap. 3. ad Archiep. Cantuariensi dedit in mandatis, ut pro eo quod Canonici filius diceretur, ex mera dispensatione procedat, de macula vero eidem Archiepiscopo mandat ut cum consilio Suffraganeorum suorum quod visum fuerit exequatur; unde illi cameram dispensationis providisse videtur; Casus tamen varie constat Electum duplici vitio detentum, et corporalis maculae et infectae Originis, in quibus repulsus, nec electio illius cassatur, et annullatur; quare igitur [illegible] vestri Clemens 3. statim ac cognovit vitium personale in solo probatum electum reijceret, verum vat. [illegible] purgatis cum [illegible] adversus cuiuslibet dignitatis, et Alex. in d. cap. tamen [illegible] desiderat ut utrique defectui dispensationem impartitus fuerit, quam difficultatem nullus tetigit; quare [illegible] certo illegitimus ad dignitates admitti non possit ex deductis tamen in d. cap. nimis cum multis de filiis presbyterorum, et ad tamen in d. cap. 2. de corpore vitiatis, ex magna quanvis dispensatione, [illegible] author [illegible] plurimum et beneficientem liberalitatem aliorum Pontificum, qui has electiones confirmarunt, ut constat ex [illegible] 12. 5. [illegible] ita Alexander fecit cum illo Cisterciensi electo, de quo in d. cap. 2. de corpore vitiatis, at vero Clemens 3. tale exemplum sequi noluit, et statuit [illegible] vitium fuerit personale [illegible], quod ibi confirmavit Innocentius 3. in [illegible] cap. [illegible] 20. de elect. et electi potest. =

No. 17. Verum difficultatem movet in d. cap. 2. de corpore vitiatis quod Archiepiscopus Cantuariensis dispensaverit cum illegitime nato, et cum vitiato corpore, cum utraque dispensatio ad Pontificem expectet ex traditis in cap. nimis ult. de filiis presbyterorum, et tamen in contrarium consideratur [illegible] 56. [illegible] Quaresma de dispensatione de [illegible] n. 15. et Quarenius de sacris [illegible] ministerijs [illegible] 4. cap. 5. Abbas Panormitanus ut effugiat difficultatem ait in prima [illegible], ubi de dispensatione cum macula corporali agitur, cum consilio Suffraganeorum dispensandum esse, verum tamen [illegible] [illegible] agitur de [illegible]gitimitate, affirmat recte pontificis ex mera dispensatione electo providisse. Verum quamvis haec Abbatis explanatio tam aequa, conveniensque sit [illegible] Alexandri decisioni, tamen mihi veritatem quaerenti, et [illegible] Quaresma extra [illegible] quem video in [illegible] triplicem dispensationem considerandam esse in d. cap. 2. de corpore vitiatis. [illegible] quo ex mandato Pontificis dispensat Archiepiscopus Cantuariensis in defectu Legitimitatis; Altera quae ex mandato [illegible] Pontificis idem Archiepiscopus dispensat circa maculam corporalem, et tertia denique [illegible] mera Alexandri [illegible], qui dispensat ipse, [illegible] natalium defectus. Nec in macula [illegible], sed in eo quod permisit Archiepiscopo in talibus defectibus dispensare et alias citra dispensationem Pontificis facere [illegible] posset, cum reserventur huiusmodi vitiorum dispensationes Romano Pontifici [illegible], et haec est quam maxima dispensatio; si mea [illegible] cogitatio Alexander [illegible], [illegible] Cantuariensi Archiepiscopo in illis vitijs dispensare, quae Soli Romano Pontifici de Communi reservata erant, atque ita sententia [illegible] tamen in d. cap. 2. de corpore vitiatis, quod [illegible] antiquiores. =

No. 18. Denique [illegible] ad [illegible] in cap. Cum olim 6. de clericis conjugatis, ubi [illegible] filius sacerdotis recte posse obtinere beneficia, et quaelibet dignitates, at filij sacerdotum sunt inhabiles [illegible] ex text. in c. de filiis presbyterorum; quia ille [illegible] [illegible] propterea [illegible] [illegible]. Verum haec difficultas facile diluitur si animadvertamus [illegible] in d. cap. Cum olim agi de clericis [illegible] Orientalis, qui licite in minoribus [illegible] matrimonio [illegible], [illegible] post sacros ordines [illegible] [illegible] legitimos esse filios, [illegible] inhabiles [illegible] [illegible] dignitates [illegible] Quaresma quam doctrinam [illegible] Verzellensis 17. 26. ubi Clerici latini Orientalis matrimonio [illegible] [illegible] filij erunt illegitimi [illegible] [illegible] [illegible] dignitatis. [illegible] in d. cap. [illegible] intelligendum esse de illis qui antea erant initiati sacris ordinibus, qui [illegible] realiter [illegible] ad matrimonium migrare [illegible] ita docent [illegible] Azor. institut. moral. [illegible] 13. cap. 13. q. 1. [illegible] de dispensatione [illegible] cap. 6. § 5. Basilius [illegible] cap. 27. [illegible]
= Bonacina [illegible] 24. cap. 5. et Tractatus de [illegible] =

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Relatio ad ... Quodlib. 54 de electione perlecta die 19 Mensis
Julii hora ... et dimidia vsque ad sextam anno Domini 1699 super
Cathedra Primaria quae vacavit jubilato D. Martini
... de Montibernos, quae quidem ... fuit
... die 29 Mensis Augusti anni
1699. quo die ... [illegible]
... Cathedram et fuit ...
... D. Felix de ...
... auditor Neapoli

Scheda. 8a

lib. 1. tit. 6

Speus qui a Greg. in nostro textu Proponitur sequens, q. Elect. Pontif. vacan. [illegible] Pastore, [illegible] Canonici in unum se convenerint ad Prelatum eligendum aliquem licet [illegible] expectare [illegible] in cap. ex terra et cap. cum in cunctis de elect. cap. quia propter, [illegible] cumana [illegible] in genesi [illegible] Plurib. alijs de elect. cap. 2. a causa [illegible] cap. congregato [illegible] major pars capituli [illegible] Decanum in [illegible] Elegit, qua Elect. celebrata Archidiacon. [illegible] Canonici [illegible] Itendentes, coram Domino Papae [illegible] Procuratore, q. nominarunt qui [illegible] inter alia [illegible] canus [illegible] electus, [illegible] Lateranensis [illegible] dignitate Archidiaconatus, [illegible] Plures [illegible] Animarum habentes [illegible] desiderauat, Procurator [illegible] qui Decanum Elegerat, dicebat [illegible] [illegible] dignitate [illegible] licet [illegible] Plures ecclesias [illegible] desiderauat [illegible] Sanc [illegible] instructa, quibus [illegible] Romanus Pontifex Comm. [illegible] mandauit [illegible] Electus [illegible] tempore Electionis ecclesias curam animarum habentes obtineri, [illegible] sacris [illegible] Electus [illegible] Partes in Iudicium vocarunt [illegible] praestito Iuramento de Veritate [illegible] [illegible] Responsionibus [illegible] Elect. [illegible] desiderantes, [illegible] obtinere Beneficia [illegible] alicna desiderat possidere, [illegible] condemnat, [illegible] per [illegible] [illegible] condemnatoria appellauit [illegible] appellatus [illegible] Pontif. tamen [illegible] condemnauit, [illegible] de nouo allegaret [illegible] praedictus Archidiaconatus [illegible] Animarum [illegible] inpetrare [illegible] Plurium [illegible] praedictum Archidiaconatum [illegible] [illegible] Rescripti [illegible] Romanus Pontif. [illegible] prolatam confirmauit [illegible] Electio praedicta [illegible]. Ex qua facti [illegible] sequens [illegible] [illegible] nostro textu deduci solet; qui Plures Dignitates vel Plura Benef. Curata sine dispensatione [illegible] [illegible] in Eligibilis est [illegible] cap. referente [illegible] cap. ad haec [illegible] cap. praeterea [illegible] cap. de multa de Praebendis [illegible] de Clericis non Residentibus, cap. [illegible] de aetate et qualitate [illegible] cap. super eo [illegible] cap. [illegible] de Praebendis in [illegible] Clement. [illegible] de Rescriptis Clement. [illegible] de Praebendis [illegible] [illegible] de Praebendis cap. Sanctorum [illegible] cap. singula [illegible] cap. [illegible] cap. Clerici cap. Clericus [illegible] Plurib. alijs [illegible] [illegible] hanc nostram [illegible] [illegible] dictis Iurib. [illegible] de Incompatibilibus [illegible] Salcedo [illegible] Praxi Canonica cap. [illegible] Petrus Greg. de Beneficijs cap. [illegible] [illegible] Canularius [illegible] Azor Institutionum Moralium [illegible] [illegible] de sacris [illegible] Ministerijs [illegible] Plures alij qui de more [illegible] [illegible] in Collect. ad nostrum [illegible] Heredo in Collect. ad [illegible] cap. de multa de Praebendis. Collect. [illegible]

Verum licet haec nostra [illegible] firmata verissima sit [illegible] sequenti [illegible] [illegible] si propter aliquem [illegible] Plures ecclesias in Eligibilis efficeret [illegible] ne maxime [illegible] obtinere [illegible] Episcopus [illegible] ineligibilis [illegible] dignitates [illegible] obtinere [illegible] [illegible] in nostro textu [illegible] eligi [illegible] poterat [illegible] cap. [illegible] de [illegible] Praebendis Minor [illegible] cap. [illegible] cap. illud [illegible] Iurib. constat [illegible] Electus ad alterum [illegible] obtinere [illegible] dignitatem [illegible] [illegible] in nostro [illegible] de matrimonio carnali ad spirituale cap. [illegible] de translat. Epis. [illegible] Plures vxores habere prohibitus non est [illegible] [illegible] plures [illegible] alijs accedere [illegible] ineligibilis [illegible] [illegible] Dubitandi ratione [illegible] Verissimum [illegible] nostri Greg. [illegible] Decidendi ratione [illegible] monstrare [illegible] notanda [illegible] animaduertimus [illegible] Electus considerari [illegible] aut rerum, aut personarum, aut actus, [illegible] [illegible] de Elect. [illegible] personarum [illegible] in Beneficijs aut in dignitatibus minoribus [illegible] ad altiorem [illegible] dere desiderant [illegible] Electionis [illegible] in nostro [illegible] qualis est, qui fit per [illegible] [illegible] celebratus [illegible] cap. [illegible] cap. ex terra [illegible] cap. [illegible] de elect. cap. cumana [illegible] cap. [illegible] cap. [illegible] de elect. cap. [illegible] [illegible] de elect. cap. [illegible] [illegible] Electioni [illegible] cap. [illegible] [illegible] Plures [illegible] relati, [illegible] Elect. [illegible] minores obtinuisse [illegible] [illegible] in Sanctis [illegible] [illegible] Electus [illegible] super Matth. [illegible]

[illegible] de elect. [illegible] cap. [illegible] de [illegible] cap. [illegible] [illegible]

testamento ... Ano ... per sortes dirimebantur ut [illegible] ... illi ... dirimi solere probant ... in tribus ... ambo ... de iudiciis ... Comi[illegible] Deleg[illegible]

(Mus vero in omnibus huius modi casibus rei iudicii fortunae et sorti inter altercantes dirimendis ... qui sortilegi dicti ob evitanda pericula et damna quae inde evenire poterant prohibita fuere per ... in cap.

[margin: de sortilegiis]

Cuius prohibitionis rationes et caetera omnia quae ad ea pertinent, libenter ... de Releg. lib. 2 de superstitione, cap. 12 Thomas Sanchez lib. 2 in decalogo cap. 38. Petrus Gregorius ... de ... cap. 3 n. 10. qui asserit apud Athenienses, Latinos, Syracusanos et alias nationes ... ea ... genera ... fuisse, quorum ... libenter prosequerer si alia propiora me non vocarent ...

[margin: V]

Ommissis animadverto breviter ... varietate ... eligendi in mutanda fuisse ... Petrus ... Domino nostro Iesu Christo ... qui ... fuerit institutus ... aequalior ... elegit ... determinabat ... tempore ... et ... electio Ponti[ficis] ... alter ... electio ... cuius rei exempla ... in ... Plura alia ... refert Sebastian. Caesar in ... de Romano Pontifice qui ... Pontificis ... Celebrem ... electionis Cardinalibus ... Neap. licet cap. ... de elect. ... Clement. ... de elect. ... Dicendus est tale ... varietate in mutandum est: aqui ... de ... super ... aqui ...

Nunc animadvertendum ... ut ... summum ... Pontificis incompatibile est cum alio quolibet episcopatu quod quidem ... Pontificatus est ... Beneficiis ... de incompatibilitate Benef. ... canonica ... cap. ... in ... Episcopatibus ... residere ... ut ... dignitatis obtinere ... Pontificis ... Beneficiorum pluralitate se abstineant ... omnia bene ... similiter ... Cardinalitia dignitas est incompatibilis cum episcopali ... exceptis videlicet illis Cardinalibus, qui ... Cardinalis ... quod quidem ... Cardinalis ... de Postulat. ... Pontifice ... admittere ... Plura alia fundamenta refert ... de incompatibilitate Benef. ... cap. ... quemadmodum qui in tam magna dignitate ... Pontificatus aequalis ... Cardinalitia Dignitas, ita similiter qui ... in aliquo Benef. ... Beneficia antea obtenta ... remanere ... nemo ... multa membra ... in corpore ... Beneficio ... dignitas, et alteri alia committenda est ... Gregorius ... in ... Beneficio ... residere ... Covarr. ... Variarum cap. 13. Duarenus de Sacris Eccl. ... Plura Beneficia ... Beneficia ... dignitate ... in aliqua dignitate ... Episcopatus ... omnia ... Beneficiis ... possessionis ... hoc ... dubitandi ... ut ... in ... Pontificis ... Episcopatus obtinere ... ad hoc probandum ... de ... in ... alii ... in specie ... Episcopatus ... alt. ... in ...

Quod quidem [illegible] Pronat in cap. qui [illegible] [illegible] [illegible] Gallis Trident. sess. cap. 6 [illegible] ita tradunt Alvarardus de Provat. Illust. 1413. cum seqq. Nicol. Garcia de benef. p. cap. 9 n. 73, qui omnes [illegible] intelligunt [illegible] in cap. [illegible] qui [illegible] ipsius recepere eccl. vacante alteri qui [illegible] eccl. [illegible] cedere [illegible] quod [illegible] Serissima sit [illegible] quod [illegible] proprium quod [illegible] cap. illud [illegible] [illegible] quod [illegible] Quintan. [illegible] dicendum [illegible] illud [illegible] cap. relatio [illegible] episcopatum [illegible] integrum [illegible] apud [illegible] Greg. [illegible] Cap. 29 [illegible] qui ab hostibus captus [illegible] potuisset [illegible] habere [illegible] potuit recte alteri [illegible] pro qua [illegible] communis Doctorum [illegible] duo Benef. [illegible] curata [illegible] in habitu [illegible] obtinet [illegible] Proponi potest casum [illegible] habuit Parochiam [illegible] in cap. Pastoralis [illegible] quo casu [illegible] Benef. in habitu et potentia [illegible] habeat [illegible] aliud obtinere [illegible] incompatibilia cap. 62 [illegible]

[illegible]

Versus ex eadem Decidendum Ran. in cert. ad textum in cap. Sicut 3° approuat. Ex cuius spectia
te Eligitur epus posse proinde Simoniacalis simul cum epus comparabiliter obtinere quod ille qui cum
dignitate ecclesiae posset in epo et eius cum Dignitate remanere, non recte in regno ex Dicis est in ipsa elig
non qui dignitatem aliquam vendet; Cuius textus intelligendi gratia Sciendum est Commune Bene
ficia Dignitates, compensans, Obtentas ab eo qui in epus eligitur Vacare dum tamen adeptus sit Pres
episcopatus consecrationem secuta, ut ad primum Trimestre ad consecrationem datum sic Capitulo quod autem
Verissimum est, licet in clem. 1ª ut lite pendente, Dignitatem Beneficia eius in epus ante adeptus
possit Vacare et Panormitanus etiam in d. Cap. inanimis, 5 1° de electione Dicat statim Beneficia promotus
Papa conferri posse, si aliquis qui apud Infideles est Beneficium possideat et in epus eligitur Beneficia vacant
etiam si translatus sit tempore quoniam tunc Papa non extat quominus possit transferri et eccle
... Vera sunt in eo qui Beneficia haberet et in epum eligitur tamen Diuerso modo procedit in epo qui
... de ipsa ad aliam transfertur, tunc enim Prior episcopatus statim Vacat per translationem ad Ecc
... in nostra Hispania recepta, Frequentius est quod epus transeat ad alium episcopatum admitt
tur et in eius Possessionem maneat donec secundum possessionem adeptus sit, quamuis quod certus sit per
episcopatus Beneficia omnia Vacare ... Superius dicta nec non obest textus in d. cap. Sicut ...
Fundamentum Dicendum est epus posse dignitatem episcopatum obtinere non ex eius dispensatione sed potius
ex dispensatione Summi Pontificis qui solet aliquando epus concedere Aliquam Dignitatem quam ... tenere
tenentur ... Dicitur in Cap. cum in Ecclesia 23 ... Prudens ... Clericis in dicto ... a Collatione
... dispensat Procedere posse, statim ex nostri textus Decisione Ubi aperte Distinguitur hoc serviciis ex Pontificis
Dispensatione ... tum in d. Cap. de Multa in fine de prebendis et Dignitatibus de quo Dicat Papa Dis
... Sublimes et litteratas Personas ut ... habeant epus ... dignitates antea obtentas ...
... eius Doctrina et praedictorum Iuris Interpretatione Sequentia Videntur obstare primo
... Beneficiis percipiendis non est acceptio personarum habenda Cap. Venerabilis 37 de praebendis
... cap. eo ... de qualitate et ... Plurimos ... acceptio personarum facienda ... Sit ...
... dispensare aut non recte ... Nobiles dispensare ... Pluralitas
... Lege Diuina et Naturali Statuta ... Illa ... Nemo potest ... dispensare
... Papa non potest abrogare ... Naturali ... Diuini ... Iuris ...
... de Consuetudine cap. ... Naturalis ... Naturali ...
Papa non recte poterit dispensare ad hoc ut quis habeat Beneficium ad episcopatum ... et in ...
... Permaneat: ... ac ... Dignitate, non obstante Dicendum est Papam posse ...
pensare ut sublimes et litteratas personas obtineant et Beneficia episcopatus ... Licet Verum sit non esse ha
... acceptationem personarum in Beneficiis ... Beneficia ... nobilis
... tunc enim si scientia Deficit et caetera requisita ... nobiles
... tunc ... Caetera omnia nobilitas ...
... Expediat, ut nobiles ... se gerant merito potest Papa ... Necess
... Concedere et dispensare ut Beneficium habens in episcopum eligatur ...
... in Ecclesia ... Potestatem ... ita et in ...
... ut ... nobilis ... de Variis ...
... Tiraquellus de Nobilitate cap. ... Petrus Gregorius ... Vbi ...
... quod Dicebam, Videlicet Papam non posse Dispensare propterea quod ... diuinus ...
... Prouenitur ... Diuini ... electio ... si ...
... non est Papa dispensare posse ... Cap. ... de Concessione praebendarum
... Papa ... dispensare ... Beneficium episcopatus ...
... remaneat ... inferiori ... qui ... habeant ... arbitramur ...
... nostri textus ... dispensare ...

[illegible] Pontifici [illegible] Praeceptum [illegible] [illegible] dicta [illegible] [illegible]
[illegible] non [illegible] dedicari absque eo [illegible] aliqua [illegible] Causa adesse: nec adeo securum manet
Praedictorum [illegible] interpretatio [illegible] [illegible] Dispensatione [illegible] [illegible] [illegible] [illegible]
Beneficij ad episcopatum accedere, oppugnat siquidem [illegible] Cap. [illegible] [illegible] [illegible] [illegible] [illegible]
te colligitur posse episcopum Dispensare [illegible] quis obtineat [illegible] Benef. [illegible] [illegible] non recte hoc [illegible]
Apostolicae reservari [illegible] =

[illegible] ad [illegible] [illegible] 6. de [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] tempore vacaverat [illegible] [illegible] [illegible] ad [illegible] [illegible] [illegible] [illegible]
et canonicos [illegible] [illegible] [illegible] facere [illegible] [illegible] vocare, [illegible] licet non
[illegible] ille qui in episcopum [illegible] [illegible] [illegible] [illegible] [illegible] dignitas [illegible] [illegible]
faciendum, [illegible] [illegible] [illegible] dignitatis [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
monasterij [illegible] [illegible] [illegible] [illegible] de [illegible] [illegible] [illegible] relinquere
cogendus [illegible] [illegible] [illegible] dignitas [illegible] [illegible] licet [illegible]
[illegible] [illegible] [illegible] vera [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] vel de [illegible] Cathedralis [illegible] regularis [illegible] [illegible] [illegible] [illegible] =
[illegible] [illegible] [illegible] [illegible] vacat beneficium [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
illius qui [illegible] 4. [illegible] 16. = [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] =

+

Relectio ad tex. in Cap. 1. de authorit.e et usu pallii. Lib. 1. tit. 8.

Scheda. 9.a

[illegible]

[illegible] [illegible]

Pro [illegible] ad Textum in cap. 2. de Auctoritate et usu Palii. [illegible]

Succedit nunc Nostri Clementis 8i Pontificis Maximi [illegible] tam notabile, quam elegans Decretum relatum in cap. 1. De auctoritate et usu palii. ex quo [illegible] dubitatum [illegible] fuisse quando pallium traditur sub hac forma, tradimus tibi pallium, ut utaris eo infra tuam Ecclesiam, qualiter [illegible] illud [illegible] infra Ecclesiam tuam, cui Dubitationi respondet Noster Clemens dicendo [illegible] utrum [illegible] esse, ut infra quamlibet Ecclesiam provinciae suae possit Archiepiscopus pallio uti. Ex quo regerunt communiter ab omnibus [illegible] interpretibus sequens [illegible] deduci solet; Archiepiscopus infra quamlibet Ecclesiam provinciae [illegible] pallio uti potest, extra [illegible] non potest. [illegible] cap. 2. cap. [illegible] 4. cap. [illegible] 5. cap. cum [illegible] 6. [illegible] auctoritate et usu pallii; cap. pallium, cap. [illegible] cum aliis 100. dist. quam [illegible] Panormitanus [illegible] Felinus, Joannes Andreas [illegible], exornant [illegible] Tractatus [illegible] nostri tituli, [illegible] quo loco [illegible] Vivianus in rationali [illegible] Pontificis [illegible] 1. cap. [illegible] Durandus in [illegible] [illegible] 1. [illegible] 7. [illegible] [illegible] Beneficial. [illegible] Archiepiscopus [illegible] Ecclesiastica [illegible] Metropolitano Emmanuel Rodriquez [illegible] 9. [illegible] Durandus [illegible] Divinorum [illegible] 3. cap. 17. [illegible] 13. Durandus de [illegible] Ecclesiae [illegible] cap. 9. [illegible] 41. [illegible] Navarrus [illegible] [illegible] 1. cap. [illegible] 9. [illegible] Thomas Sanchez [illegible] 5. [illegible] cap. 1. dubio [illegible] Sebastianus [illegible] Ecclesiastica Hierarchia 1. p. [illegible] 5. [illegible] 2. [illegible] 5. [illegible] Beneficiaria [illegible] 22. [illegible] [illegible] Barbosa [illegible] [illegible] 41. idem Barbosa [illegible] de [illegible] Ecclesiastico [illegible] cap. [illegible] n. 10. idem Barbosa [illegible] adhuc [illegible] plures alios [illegible] hanc [illegible] n. 2.

Verum licet [illegible] tot auctoritatibus, tamen [illegible] [illegible] difficilis tamen redditur ex sequenti consideratione [illegible] Archiepiscopus intra [illegible] tantum pallio uti [illegible] [illegible] [illegible] [illegible] [illegible] utrantur [illegible] [illegible] Archiepiscopus in locis exemptis [illegible] nullo [illegible] jurisdictionem [illegible] [illegible] ante [illegible] [illegible] benedictione [illegible] [illegible] in Pontificalibus [illegible] [illegible] privilegiis, [illegible] recte [illegible] Archiepiscopus tantum [illegible] subiectis pallio uti posse, [illegible] minime [illegible] auctoritate [illegible] recte [illegible].

Augetur hic Dubitatio [illegible] ex decisione [illegible] cap. [illegible] 6. [illegible] de auctoritate et usu pallii, [illegible] Archiepiscopo loquens [illegible] ubicumque fueris in Missarum Celebratione [illegible] solemnibus [illegible] pallio poteris [illegible] [illegible]. [illegible] manifeste [illegible] Archiepiscopus [illegible] pallio uti [illegible] [illegible] recte noster Clemens [illegible] [illegible] provinciam [illegible].

n. 3.

[illegible] [illegible] [illegible] Dicendum est Verissimam esse [illegible] Archiepiscopum pallio uti [illegible] intra [illegible] provinciam; extra [illegible] minime. [illegible] [illegible] pallium [illegible] pallii [illegible] Archiepiscopi [illegible] [illegible] ex [illegible] [illegible] [illegible] monasterio Sancti Agnetis [illegible] festivitate [illegible] [illegible] missa solemni [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] tempore [illegible] veniat. [illegible] pallium [illegible] [illegible] [illegible] ante, et retro [illegible] [illegible] est Duplex [illegible] simplex, [illegible] habet [illegible] cruces [illegible] [illegible] [illegible] [illegible] Durandus in [illegible] Divinorum [illegible] cap. 17. [illegible] cruces [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Significant [illegible] [illegible] [illegible] [illegible] [illegible] sed temperat [illegible] [illegible] [illegible] [illegible] [illegible] Durandus [illegible] cap. [illegible] 4. [illegible] [illegible] [illegible] [illegible].

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Barbosa [illegible] [illegible] [illegible] n. 2.

n. 4.

Plurimus scientiae est pallium significare plenitudinem Potestatis Pontificalis
ut constat extra [illegible] [illegible] speciali § 3. cap. ad honorem 4. h. [illegible] et ex Concilio Lateranensi 4° sub Innocentio 3° anno
1215. cap. 5. quod quidem ad hoc institutum fuisse a Lino Papa testatur Eusebius in sermone de Epiphania, et Decretalis
licet ex Ceremoniali Romano [illegible] Et pallium huius Dignitatis insigne [illegible] a Corpore Divi Petri
[illegible] significat cap. 4. de elect. ut significet [illegible] Pallii eo eminentis Dignitatis ab ipso Petro accepisse
[illegible] ad aram Divorum Petri, et Pauli inferius, ubi solemnibus recitatis [illegible] a Papa consecratur, [illegible]
integram [illegible] relinquitur, mane recipitur [illegible] [illegible] alicui Archiepiscopo [illegible], ad [illegible] magnus [illegible]
[illegible], et dispensat, ac [illegible] a Priore Diaconorum his verbis expressis; In nomine Patris, et Filii, et Spiritus Sancti,
in honorem Dei genitricis, et in honorem Sanctorum Petri, et Pauli Apostolorum, et Domini D. Papae tradimus tibi pallium
sumptum de sanctissimo Corpore Petri Apostoli, ut [illegible] intra [illegible] tuam [illegible]; constat ex Cere-
moniali Romano [illegible] de pallio; tradunt Baronius anno 1179: Panci[illegible] Thesauri Variarum Lectionum cap. 20; Ex
[illegible] in [illegible] Romanus Papa pallio [illegible], imo, et Patriarchas, et Archiepiscopos. Patriarchas ex [illegible]
[illegible] Pontificem habent, Archiepiscopi, quia Principes [illegible] sunt, [illegible] cap. [illegible] Patriarchas, [illegible] Archiepiscopi [illegible]
tradit [illegible] [illegible]. [illegible] Pontifices [illegible] quibusdam episcopis palli [illegible]
S. [illegible], et Papiensi in Lombardia, Lucensi in Tuscia, [illegible] in [illegible], tradit Barbosa [illegible]
[illegible] [illegible] n° 3. cum pluribus [illegible] Durantus de [illegible] lib. 2. c. 9. n° 45. = [illegible] pallium
[illegible] nec personae, nec dignitati duntaxat separatim conceditur, sed [illegible] et dignitati simul, ut constat ex cap. [illegible]
[illegible] [illegible]. [illegible] Dignitas [illegible] habet honorem pallii annexum [illegible] frequenter [illegible] Archiepiscopus [illegible]
[illegible] et similibus, imo semel indulta personam [illegible], nam [illegible] pallium [illegible] est, cap. [illegible]
memoriam [illegible] de [illegible] Lateran., [illegible] personale [illegible] valeat [illegible], imo cum [illegible]
sepeliri cap. 2. h. t. ubi [illegible], et [illegible]. [illegible] Romanus magnum damnum [illegible] ex [illegible]
corruptus muneribus coegit Joannes 19, quem [illegible] tenebat sub [illegible], ut [illegible] Patriarchae Constantino-
politano Imperatoris filio, eiusque omnibus successoribus concederet, ut [illegible] [illegible] [illegible] pallio, [illegible]
in facto [illegible], [illegible] quaesivit, similiter [illegible] Gregorius [illegible], quo Graeci palliis [illegible], [illegible]
venit, ita [illegible], et plura alia huius rei exempla [illegible] Baronio anno [illegible] 934. =

Deinde notandum est propriis [illegible] accedendo Archiepiscopi, qui

n. 5.

Simode olim fuerunt nuncupati, ut constat ex cap. [illegible] 22 dist., et tradit Valensis in paratitlis ad hunc [illegible]
§ 2. Episcopalem, et Ordinariam in sua provincia, cui [illegible] jurisdictionem habere, ita ut omnes [illegible] suffraganeos, qui exemplo [illegible]
[illegible], [illegible] [illegible], cap. [illegible] de off. ordinarii; [illegible] cap. [illegible] sive civilibus, sive
criminalibus cognoscat, nisi causae criminales Summo Pontifici sint reservatae, [illegible] Dignitatis, vel off[illegible]
[illegible]; hunc enim [illegible] Summo Pontifici cognitio reservatur [illegible] Concilii Tridentini sess. 24. cap. 5. de reformat. [illegible] Archiepiscopi
[illegible] habere [illegible] in subditos Suffraganeorum, nisi aliquo titulo hoc adquisierint, quamrem [illegible]
[illegible] [illegible] Barbosa in remissionibus ad Concilium Tridentinum [illegible]. Constat [illegible] Archiepiscopum [illegible]
[illegible], quam episcopus [illegible] pallio uti [illegible] [illegible], [illegible] in nativitate Domini, [illegible]
[illegible] Sancti Joannis Baptistae, et omnium Apostolorum, in festivitate Sancti Stephani in Circumcisione, in Epiphania
[illegible], in Coena Domini, in Sabbato Sancto [illegible] Dies resurrectionis, et pentecostes, et [illegible] festivitatibus [illegible]
Beatae Mariae, et in omnibus aliis, qui in concessione pallii accipienti fuerint [illegible], ita docet [illegible]
ad honorem h. t. quam [illegible], et [illegible] h. [illegible] Archiepiscopus tunc [illegible] authoritatis [illegible]
[illegible] interpretat, ad quod tamen [illegible] a Papa consecrationis, [illegible] Dignitatis [illegible]
100. dist. Concilio Calcedonense act. 16. cap. 5. [illegible] 76. [illegible] 23. [illegible]
aliquo impedimento, morbo, aut gravi negotio [illegible], cap. [illegible]
in Manuali cap. 25. n. 116. [illegible] in Summa [illegible] cap. 9. § 4. quod [illegible] verum est, ut [illegible]
Archiepiscopum [illegible] [illegible], concilium [illegible], [illegible] facere, Basilicas dedicare, [illegible]
ordinare, aut episcopos consecrare, [illegible] qui [illegible] consecrari non [illegible] synodalia exercere; tradit [illegible]
in [illegible] Decalogi [illegible] 4. cap. 38. n. 9. = [illegible] obstat dicere episcopos confirmare, [illegible]
ordinare, consecrare, Chrismam conficere, et Basilicas dedicare cap. [illegible] Archiepiscopus [illegible]
[illegible] Concilii Tridentini [illegible] 2. de reformat. cap. 2. Divus Thomas 3. p. q. 63. ar. 4. [illegible] [illegible] potest Archiepiscopus [illegible]
facere, cum [illegible] debeat [illegible] [illegible] Conditionis ac simplex episcopus, arg. [illegible] in L. 3. C. de Dignitatibus lib. 12. [illegible] tradit [illegible]
[illegible] [illegible] ad honorem 4. h. [illegible] t.: [illegible] nihilominus [illegible] Archiepiscopi

[illegible] [illegible] super [illegible]

hec facere absque pallio suscepto, quia utrumque simplices episcopi, sed tanquam Archiepiscopi exercerint, xnii quamque decernentur pallio, Relegati [illegible] cap. [illegible] Consecratio, vers. Sed neque ille trans [illegible] episcopi; ubi illa debet observari [illegible], aut Archiepiscopi, ante pallium susceptum ea exercerit, quia ad pallium expectabant erat tamen [illegible] consecratus, vel non, si consecratus erat [illegible] quod [illegible] potestatis ordinis exercuit [illegible] canones [illegible]; ceterum si consecratus non sit, omnia sunt irrita, ita [illegible] moral. lib. 3. cap. 34. [illegible] Barbosa [illegible] a [illegible] cathol. [illegible] n. 4. =

n. 6.

Quibus ita constitutis, apparet iam verissimam esse [illegible] sinem [illegible] Archiepiscopus tam intra suam provinciam pallio uti posse, extra autem minime, cuius decidendi ratio ex eo oritur, nam cum Ecclesia [illegible], ut Pontifex per se solus Ecclesiam universam gubernaret, alios ipse designavit praelatos, inter quos fuerunt Archiepiscopi, qui quoniam maiores habent auctoritatem quam Episcopi, pallio insigniti [illegible] viderentur, quare per totam suam provinciam suam illo possint uti, ex eo est; nam [illegible] Archiepiscopus [illegible] namque in plenitudine potestatis fuit vocatus, Archiepiscopus vero in partem sollicitudinis [illegible] cap. [illegible] de auctoritate et usu pallii, ideo que cum [illegible] natura [illegible] ratio [illegible] maiori [illegible] episcopalis statutum fuit [illegible] dicto Archiepiscopo tantum in provincia sua pallio posse uti ad [illegible] qui semper et ubique pallio uti potest [illegible] 4. [illegible] Germonius [illegible] Cardinalis ex [illegible] = Verum licet [illegible] Archiepiscopum pallio uti [illegible] tamen [illegible] facere [illegible] omnibus diebus, sed tantum [illegible] solemnibus [illegible] si episcopum consecraret, vel in ordinationibus clericorum, ad hec namque exercenda debet pallium assumere, [illegible] defendere [illegible] Petri [illegible] Pontificalis officii, ita docet [illegible] cap. [illegible] =

n. 7.

[illegible] tam quam [illegible] ex [illegible] n. 2. [illegible] abusta [illegible] probabamus Archiepiscopum extra loca suae provinciae pallio uti posse, [illegible] vera [illegible] Archiepiscopo [illegible] pallio uti posse, [illegible] tamen [illegible] extra provinciam suam pallio uti debere, qui [illegible] tamen in locis exemptis [illegible] provincia [illegible] fuit [illegible] Archiepiscopus ut non omnia loca tam exempta quam non exempta [illegible] pallio uti [illegible] Clemens [illegible] legitur = [illegible] cuius rei confirmatio facit [illegible] beneficia [illegible] vacaverint [illegible] anni spatium [illegible] beneficia [illegible] exempta, [illegible] provinciae [illegible] fuit valebat [illegible] fructus capere, ita tradit [illegible] exempla [illegible] Beneficiis [illegible] Clementina [illegible] =

Minus obstat [illegible] huius [illegible] Archiepiscopum semper et ubique pallio uti posse [illegible] modo [illegible]. [illegible] ita debere intelligi [illegible] suae provinciae [illegible] vel [illegible] ex speciali et singulari privilegio summi [illegible] Pontificis [illegible] licet regulariter Archiepiscopus solus [illegible] suis [illegible] semper et ubique [illegible] amplitudo [illegible] =

n. 8.

Ex [illegible] decidendi [illegible] Archiepiscopus Eboracensis [illegible] Cantuariensis a Romano Pontifice [illegible] Archiepiscopus Eboracensis ubique pallium, ac crucem deferret, [illegible] ut pallium ac crucem extra suam provinciam [illegible] Eboracensis Archiepiscopus [illegible] Pontifex [illegible] hoc, ut [illegible] pallium, et crucem extra suam [illegible] eminenter [illegible] cathol. [illegible] Archiepiscopus [illegible] crucem [illegible] ubique [illegible]

[illegible] nam non sufficit [illegible] cum [illegible] nec tunc [illegible]
[illegible] potest, nihil [illegible] magis [illegible] inveniri potest quam quod Archiepiscopus semper [illegible]
[illegible]. Quare [illegible] concilio [illegible] antiquiores [illegible] cap. 4. [illegible]
[illegible] Archiepiscopus [illegible] cruce, ac pallio uti possit, quod privilegium
ad hoc [illegible] Romano Pontifice consequutus fuerat, cum ipse Romanus Pontifex, qui [illegible] pallia omnia in [illegible]
[illegible] retinet [illegible] aliqua [illegible] subditis [illegible] concedere, quod facit [illegible] mittendo [illegible] Archiepiscopo
[illegible] extra fines suae provinciae pallio uteretur, [illegible] tradit Barbosa [illegible]
Contra quam solutionem [illegible] consideratio, [illegible] privilegium [illegible] a Romano Pontifice [illegible]
[illegible] priore [illegible] quibus modis [illegible] tunc revocatum privilegium [illegible]
[illegible] plurimis aliis [illegible]
[illegible] quibus [illegible]. [illegible] absque [illegible]
[illegible] privilegium adhuc durare [illegible] Archiepiscopus extra provinciam [illegible] cruce, ac pallio
[illegible]. = [illegible] in L. 1. ff. de off. proconsulis, [illegible] L. 2. C. de [illegible] Sacri Cubiculi [illegible]
[illegible] permittitur [illegible] licere [illegible] sua dignitate uti [illegible] et ubique, [illegible] similiter Archiepiscopus
pallio uti [illegible] ubique. [illegible] difficultas [illegible] est [illegible]
[illegible] dignitas, aut [illegible]. [illegible] dignitas ubilibet [illegible]
[illegible] privilegium [illegible] provinciam [illegible]
[illegible] L. 2. C. de [illegible] Sacri Cubiculi [illegible] 12. [illegible]
[illegible] = [illegible] intelligendum [illegible] Clemens 5.us in Concilio Viennensi
celebrato anno [illegible] de privilegiis [illegible] explicuimus. =

Rursus [illegible] de privilegiis

[illegible] Patriarchis Constantinopolitano, Alexandrino, Antiocheno, et Hierosolymitano [illegible]
fidelitatis [illegible] pallium largiri, [illegible] Archiepiscopi pallio uti [illegible]
[illegible] nam in [illegible] Archiepiscopi pallium [illegible]
[illegible] Summo Pontifici [illegible] pallium
[illegible] difficultas [illegible] aliqua [illegible] quibus [illegible]
Dicendum [illegible] privilegium [illegible] Patriarchis [illegible] pallium [illegible] dignitas, et exercitium [illegible]
[illegible] concedere, nec tunc [illegible] Romani Pontificis auctoritate [illegible]
aliquem facere [illegible] Pontificis [illegible]
[illegible] Patriarcharum [illegible]
[illegible] ex privilegio singulari, ita tradit Barbosa in tractatu De [illegible] Ecclesiastico [illegible]

Deinde [illegible]

n. 10.

[illegible] ibi hic proponitur species. [illegible] Ungaris [illegible]
fuit [illegible] qui ad Romanum Pontificem [illegible] adhoc ut [illegible]
exercitio [illegible] privilegium Summus Pontifex cum hoc [illegible]
[illegible] utrum tale [illegible] sufficiens adhoc ut [illegible] pallii [illegible]
[illegible] habens talem [illegible] pallii [illegible]
[illegible] pallio uti [illegible]
[illegible] Archiepiscopus [illegible] = [illegible] difficultatem [illegible]
[illegible] Verum melius erit dicere [illegible]
[illegible] Pontificis privilegio pallii [illegible] quod quidem licet [illegible] tamen [illegible]
[illegible] tradit Barbosa in [illegible]
[illegible] dicere [illegible] Dicendum [illegible]
[illegible] non [illegible] plurimis [illegible] in Canonico, [illegible] Caesarea
[illegible] aliquando, et [illegible] tamen debent intelligi [illegible]
[illegible] observetur, et [illegible] quod licet [illegible]
[illegible] pallio uti posse intelligam [illegible]
[illegible] privilegio, [illegible] =

n. 11.

[illegible] [illegible], [illegible] Luce [illegible] est [illegible] 200. dist., [illegible] [illegible] extra lectam pallio uti, [illegible] Gregorius etiam extra lectam [illegible] Archiepiscopum pallio uti [illegible]; sed [illegible] hec difficilimum videatur, tamen facile [illegible], si animadvertamus hec [illegible] Pontifici [illegible], quod ex [illegible] apparet; nam [illegible] consuetudini [illegible] Summa [illegible] consuetudo, [illegible] hoc [illegible] Summus Pontifex ornatur, [illegible] verum est, [illegible] Barbosa [illegible]. = [illegible] cap. [illegible] 96. de [illegible] dist. [illegible] ubi Rem quaeritur [illegible] debeat fieri [illegible]. Nicolaus [illegible] pallio [illegible] Summi Pontificis. nec [illegible] [illegible] habet, et [illegible] resident, [illegible] Archiepiscopis [illegible] pallio [illegible] pallio [illegible] cap. intra 200. dist. = [illegible] cap. [illegible] Romae [illegible] [illegible] illud [illegible] et Generale [illegible] Pontifex [illegible] de [illegible] pallio [illegible] hoc [illegible] [illegible] concedere [illegible] illud [illegible] [illegible] pallio [illegible]. =

n. 12.

[illegible] Innocentius [illegible] [illegible] ad Supplicat. [illegible] Requiensis dicentem [illegible] [illegible] Archiepiscopus [illegible] [illegible] Archiepiscopus [illegible] [illegible] pallio [illegible] [illegible] cap. ad Supplicat. [illegible] pallio [illegible] [illegible] Dicebamus, cap. [illegible] pallium [illegible] transmiserunt [illegible] pallio uti [illegible] [illegible] pallio [illegible], quemadmodum [illegible] [illegible]. =

n. 13.

[illegible]

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Prælectio ad Sext. in cap. Ad honorem 4. de authorit. et usu palij.

Scheda 10.

lib. 1. tit. 8

Inn[ocentius] [illegible] ad honorem de auth[oritate] et usu Pallii, qui gubernavit eccl[esi]am ex anno 1198 nobis iterum Disputationi campum offert. cuius adeo elegans [illegible] dicere nullum [illegible] selectiora verit[at]is [illegible] [illegible] demonstrant. ita fatur ad honorem, ex supra. Ex his [illegible] nemo est qui non videat duplicem [illegible] [illegible] [illegible] duplex assertio. [illegible] magis [illegible] ubi et quando Pallii auth[oritat]e eccl[esi]as [illegible] omnes qualiter [illegible] Pallio [illegible] [illegible] asserendo Romanus Pont[ifex] semper, et ubique pallio uti posse tamquam [illegible] eccl[es]iae dignissimum, ac supremum Presulem, [illegible] potestatis [illegible] ceteros in eccl[esi]a Prelatos in eccl[es]ia [illegible] ubique [illegible] ecclesiastici habent pallium [illegible] debere, q[uo]d duplex [illegible] duplici [illegible] [illegible] Primum hoc est. Romanus P[ontife]x semper et ubique Pallio [illegible] hic assertio nullum [illegible] exercuerunt tamen [illegible] Calamo [illegible] Antiquiores [illegible] Anastasius Sermonum [illegible] [illegible] de ecclesiastica hierarchia [illegible] Cerola [illegible] Archiep[iscop]o [illegible] Hostiensis [illegible] c. 6. Durandus in rationali divinorum [illegible] B. c. 17 n. 13. [illegible] c. 34. Rodriguez [illegible] regularium [illegible] 4. c. 14 [illegible] in rationali [illegible] pag. 90. [illegible] [illegible] [illegible] collect[io] 3 decretalium [illegible] Barbosa in collectaneis ad [illegible] et de eccl[esi]a [illegible] c. 7. n. 35. [illegible] plures [illegible] [illegible] examinantes. =

[illegible] dicet hic [illegible] assertio verissima [illegible] fidei [illegible] catholicae [illegible] illam, [illegible] pallium [illegible] [illegible] Romanus ubique Pallium [illegible] habere, [illegible] [illegible] [illegible] [illegible] Imperatoris [illegible] [illegible] Imperator [illegible] = [illegible] [illegible] [illegible] pallio [illegible] Romano P[ontifi]ce [illegible]. =

[illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] Pallii esse insigne ornamentum ex lana candida contextum quae ex [illegible] quotannis in monasterio [illegible] agnetis in die festivitatis [illegible] [illegible] in missa solemni [illegible] Dei [illegible] et [illegible] canonicis Lateranensibus [illegible] [illegible] consignantur. Sub [illegible] [illegible] [illegible] Veniat [illegible] pallium [illegible] humeros [illegible] [illegible] [illegible] [illegible] parte ante et retro pendentes [illegible] est duplex [illegible] [illegible] et [illegible] [illegible] ex utraque parte ante et retro pendentes [illegible] [illegible] [illegible] [illegible] habet quatuor cruces purpureas [illegible] [illegible] [illegible] Durandus in rationali [illegible] [illegible] [illegible] sanguine [illegible] [illegible] cruces [illegible] quatuor [illegible] [illegible] lib. 3. cap. 17. [illegible] tres [illegible] cruces [illegible] [illegible] et [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Virtutes Cardinales [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] non excedit [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Ut docent [illegible] [illegible] [illegible] [illegible] [illegible] de sancto Victore in lib. [illegible] Hostiensis in sum[m]a [illegible] [illegible] [illegible] Pallii plenitudo potestatis [illegible] [illegible] [illegible] [illegible] anno 1215. [illegible] [illegible] [illegible] specialis [illegible] [illegible] [illegible] [illegible] [illegible] de [illegible] [illegible] ex Ceremoniali Romano. De pallio. [illegible] Pallium [illegible] dignitatis insigne [illegible] [illegible] Petri [illegible] [illegible] dilectionem, et significat Presulis Palliati eminentem Dignitatem [illegible] Petro accepisse, [illegible] Dominorum Petri et Pauli [illegible] [illegible] à P[ontifi]ce Consecrati [illegible] [illegible] [illegible] [illegible] Archiep[iscop]o [illegible] [illegible] [illegible] [illegible] accipit [illegible] à Priore [illegible] in nomine Patris, et Filii, et Spiritus Sancti, et in honorem [illegible] [illegible] [illegible] Petri, et Pauli Apostolorum, et D. N. Papae traditum tibi Pallium [illegible] de [illegible] corpore Petri Apostoli [illegible] [illegible] [illegible] [illegible] Romano [illegible] de Pallio. Baronius [illegible] [illegible] [illegible] [illegible] [illegible] c. 20. ex quibus [illegible] [illegible] Papae pallio [illegible] posse, imo et Patriarchis, et Archiep[iscop]is. Patriarchis [illegible] [illegible] [illegible] [illegible] Archiepis[copi] [illegible] Principes [illegible] [illegible] [illegible] Patriarchis, [illegible] Archiep[iscop]i [illegible] Petrus [illegible] [illegible] [illegible] [illegible] singulari Papae privilegio quibusdam [illegible] pallium indultum [illegible] [illegible] Hostiensi, [illegible] [illegible] [illegible] in Tuscia [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] ex particulari Papae privilegio intelligeretur [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Barbosa in collectaneis ad [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Pallii [illegible] [illegible] Dignitati [illegible] [illegible] [illegible] personae, et dignitati [illegible] [illegible] [illegible] nulla dignitas [illegible] habet [illegible] Pallii [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Pallii [illegible] [illegible] memoriae [illegible] de postulatione [illegible] [illegible] [illegible] [illegible] [illegible] Palliatus [illegible] [illegible] Palliatus debet sepeliri c. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Joannes [illegible] [illegible] [illegible] Theophilacto Patriarchae, Constantino [illegible] Imperatoris filio [illegible] [illegible] [illegible] [illegible] [illegible] Papae [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] pallii [illegible] [illegible] [illegible] [illegible] [illegible] Baronius anno [illegible] 934. =

Unde apparet verissimum esse quod Innocentius [illegible] assertionis sedis Romanae [illegible] Christi factum [illegible] cuius veritatis plures rationes ac [illegible] antiquiores [illegible] docuit ipse Rex in illis verbis quoniam assumptus est in plenitudine ecclesiasticae potestatis certum enim est universae totius ecclesiae potestatem concessam fuisse a Christo [illegible] et successoribus iuxta illud Tu es Petrus [illegible] cap. fundamenta de elect. in 6 cap. [illegible] de maioritate, et obedientia, extravagante Unam sanctam eodem titulo, et tradunt [illegible] per Venerabilem, qui filii sint legitimi cum pluribus aliis quibus [illegible] Bellarminus et Suarez relati a Sebastiano Caesare disp. 1a de Rom. Pontifice § [illegible]

[illegible] Veritati [illegible] obstat illa [illegible] consideratio quod si summus Pontifex omnium [illegible] supremus Petro succedens legitime possit recte appellari Universalis ecclesiae Praelatus [illegible] tamen [illegible] Concilium Africanum incip. Prima sedes 99 dist. et Greg. [illegible] incip. [illegible] dist. [illegible] dicendum est summum Pontificem pastorem universalem nuncupari non posse [illegible] maioribus nequeat adecorari nominibus [illegible] singulis ecclesiis [illegible] praeesse per se non potest, ut docet Sebastianus Caesar de Rom. Pontifice [illegible] sup. paret ergo ex [illegible] Rom. Pont. tantum [illegible] posse pallio [illegible] cum [illegible] Petro succedens [illegible] velut a capite haec potestas dimanat cap. fundamenta de elect. Lib. 6o ad [illegible] ceterorum praelatorum qui non nisi in propria ecclesia et certis diebus pallio [illegible] [illegible] infra ita docent Durandus et [illegible] locis sup.a citatis.

[illegible] Nec sunc [illegible] illa dubitandi ratio quam superius adduximus [illegible] Romanus Pontifex [illegible] [illegible] hoc ergo [illegible] nec aliud obstat [illegible] inde cap. cum sis [illegible] ceteros praelatos praeter [illegible] [illegible] pallio [illegible] illud [illegible] intelligi respectu ecclesiarum quibus [illegible] praelati praesunt quod etsi non constet [illegible] [illegible] docet glossa in praesenti [illegible] sequuntur [illegible] in praesenti [illegible] de Rom. Pontifice succedat nunc demonstrare [illegible] quomodo [illegible] ceterique praelati ecclesiae uti possint pallio, et quoad archiepiscopum docet Innocentius [illegible] tantum posse uti in ecclesiis suis [illegible] quod probatur ex [illegible] incip. 1o et ex [illegible] 2o et ex [illegible] incip. ex tuarum 5o et ex cap. cum sis 6. hoc [illegible] et [illegible] cap. ex imbenitate de praesumptionibus cap. pallium cap. contra cum pluribus aliis [illegible] cap. [illegible] 1o [illegible] pendente cap. antiqua de privilegiis cap. [illegible] de elect. tradunt [illegible] [illegible] sup.a relati. — Ut igitur cognoscamus cur archiepiscopi intra ecclesias quibus [illegible] sunt tantum possint pallio uti sciendum imprimis est archiepiscopum quandoque [illegible] nuncupatos fuerunt ut constat [illegible] cleros 21 dist. et tradit Valensis in [illegible] ad hunc [illegible] § 2o episcopalis, et ordinarius in sua provincia cum praesunt [illegible] tionem habere, [illegible] ut omnes suffraganeos qui exempti non sint [illegible] corum [illegible] [illegible] sit cap. pastoralis de officio ordinarii. Unde de omnibus causis eorum [illegible] [illegible] sive criminalibus cognoscit nisi causae criminales summo Pontifici [illegible] reservatae [illegible] suffraganeorum [illegible] mereantur tunc enim [illegible] [illegible] docet [illegible] Tridentinum Ses. 24 cap. 25 de reformat.e [illegible] habere potestatem in subditos suffraganeorum nisi [illegible] [illegible] Concili. [illegible] nunc [illegible] docuit eleganter Barbosa in remissionibus ad Concil. [illegible] et Valerius loco sup.a citato. Constat ergo archiepiscopi maioris esse dignitatis [illegible] quam episcopi, proinde pallio uti posse in suis ecclesiis et in diebus a iure permissis [illegible] in Nativitate Domini, in festivitate Sancti Ioannis, etc. [illegible] in Circumcisione [illegible] in [illegible] in [illegible] Palmarum in Cena Domini, in [illegible] [illegible] resurrectionis, Pentecostes, in festivitate Sancti Ioannis Baptistae et omnium Apostolorum, in [illegible] festivitatibus [illegible] Mariae, et in omnibus aliis quae in Concilio [illegible] pallii [illegible] fuerat permissa, ita docet glossa in praesenti verbo ad honorem [illegible]

ratio dubitandi adducitur ex [illegible] incip. cum sis [illegible] [illegible] qui [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] pallio [illegible] [illegible] [illegible]

mea

que sequitur. Altas et Hostiensi inpresenti; Unde Archiepiscopus ante
consequutionem palli aut dignitate eius eminent, et fortiter tenetur, adquod tenebitur [illegible]
[illegible]. adeo consecrationis aliasque dignitate palliata carebit cap. 2º 10 distinct. Concil. Cal
cedonense act. 16. cap. 25. Carthaginense cap. 76. Trident. ses. 23. cap. 2 de re[formatione]
modo iusto aliquo impedimento mabo, aut gravi negotio non sit impeditus cap. post
50 distinct. cap. quoniam 75. distinct. Navarr. in manuali cap. 25. [illegible] 16 [illegible]
[illegible] insumma Lib. 9. cap. 29. § 4. quod adeo verum est. ut ante palli concessionem
Archiepiscopus non dicatur. Unde tunc non poterant Concil. convocare, crisma con
ficere, Basilicas dedicare, clericos ordinare, aut episcopos consecrare, omnia enim
quae desiderant consecrationem non possunt absque sive pallio exerceri. tradit [illegible]
[illegible] in praecepta decalogi tomo 1º Lib. 4. cap. 38. nº 9. neque his obstat dicere
Episcopos confirmatos et consecratos posse ordinare consecrare crisma conficere et Ba
silicas dedicare, cap. episcopi 24 dist. cap. Si Archiepiscopus de tempore ordi
natum Trident. ses. 23 de reformat. cap. 2º neque S. Thomas 3 parte q. 69. art. 4
in ergo maiori ratione poterit Archiepiscopus haec omnia facere cum non debeat esse
deterioris conditionis ac simplex Episcopus argumento [illegible] in l. 3. C. de dignitatibus
lib. 12. cum traditis per D. innocentio, et Hostiensi inpraesenti. Nam nihil omnino [illegible]
[illegible] ideo non licere Archiepiscopis haec facere absque palli susceptione
[illegible] non tamen simplices Episcope [illegible] tamen Archiepiscopi praedicta [illegible]
[illegible] ante ergo [illegible] pallio ecclesia viduata dicitur argumento [illegible] inconsequenter
corporalia [illegible] neque de translat. episcopi, Unde illa debet observari distinctio
aut archiepiscopus, ante palli susceptionem ea exercuit quae [illegible] pallium expectabant erat
iam episcopus consecratus [illegible] non [illegible] consecratus erat [illegible] omnia quae circa potestatem
[illegible] exercuit [illegible] canones [illegible] ceteris si consecratus non sit omnia sunt [illegible]
utilia, ita [illegible] 3 parte Lib. 3. cap. 34. q. 5. et 6. Barbosa [illegible] ad hunc
[illegible] inpraesenti nº 4. = Rursus secundum est Archiepiscopum in suis ecclesiis pallio
[illegible] non in omnibus actionibus [illegible] tantum in missarum solemniis [illegible] si episcopum
consecret, [illegible] in ordinationibus clericorum ad quae exercenda debet pallium petere [illegible]
forma ego Nicolaus electus ecclesiae Salmantinae instanter et instantissime peto mihi
tradi et assignari pallium de capore Sancti Petri sumptum inquo est plenitudo pon
tificalis officii; Unde etsi sit concessum sibi pallium [illegible]
ecclesiae translat. [illegible] neque praedecessori [illegible] Barbosa [illegible]
de iure ecclesiastico cap. 7. in fin. [illegible] ergo [illegible] Archiepiscopum tantum [illegible]
ecclesiis suis pallio uti posse, rationem [illegible] [illegible] ne ceteri praelati [illegible]
[illegible] in partem solicitudinis, non in plenitudinem potestatis [illegible] ergo [illegible]
tas Pontificis, ac Archiepiscoporum [illegible] ergo [illegible] fuit [illegible]
omnium superiorum supremum esset, et [illegible] esset; ut [illegible] ecclesiae integra [illegible]
ret alios [illegible] praelatos quos tamen [illegible] nominatos minoris potestatis obtinere
et [illegible], et naturae ratio [illegible] mirum ergo non est. Archiepiscopos tantum in
suis ecclesiis pallio uti posse, Pontificem [illegible], ita tradunt omnes antiquiores inpraesenti
Ex omnibus [illegible] Constat summum Pontificem ubicumque posse pallio uti, at Archiepiscopos tan-
tum intra [illegible] suas. Et verissimum profitemur, in primo [illegible] alii [illegible] alius [illegible]
[illegible] pallio [illegible] aut alii [illegible] pallio uti; 18 [illegible]
ubi alii [illegible] aut dicendo [illegible] Pallio uti [illegible], aut [illegible]
[illegible] ex privilegio [illegible] pallium [illegible], sicut [illegible] Providere ex
speciali [illegible] et ubi libet [illegible] Pallio. [illegible]
[illegible]

[illegible] cap. 9 sunt [illegible] 28 § super eo [illegible] cap. 4 in [illegible]

Ex his omnibus infero interpretat[ionem] ad text[um] in cap. antiqua 23 de privilegiis ubi permissum est Patriarchis Constantinopolitano, Alexandrino, Antiocheno et Hierosolimitano, postquam ipsi iuramento fidelitatis prestito pallium acceperint suffraganeis suis pallium largiri, ergo non solum Archiepiscopi post pallium sed immo Archiepiscopi quorum officialibus videtur ex illa consideratione ingredi facere Archiepiscopi facultas auctoritatis concesserunt, quod summo Pontifici reservatum esse iura proclamant, et DD. edocent ergo falsum est aliquis dicit, tum difficultatis dicendum [illegible] aliqua scripsit, Abbas in dicto textu n. 2 quibus non admissis dicendum privilegium in presenti fuisse concessum Patriarchis ita ut ipsi possent pallium authoritatis suffraganeis suis concedere, neque tunc deficiat Romani Pontificis auctoritas cum certum iuris principium sit idem esse quis aliquid facere ac alium suo nomine textus in cap. qui facit per alium de reg. iuris, in presenti ergo interfuit Pontificis auctoritas per medium Patriarcharum personam, ita docet Barbosa in tractatu iuris ecclesiastici lib. 1 cap. 6 n. 35.

Rursus ex dictis infero interpretat[ionem] ad textum in c. Cum inimicitie 15. de praesumptionibus. [illegible] episcopus [illegible] quoddam commiserat de quo [illegible] fuit accusatus, quibus Romano Pontifici rescripsit, ut hic episcopus [illegible] de sua [illegible] privaret de pallii auth[oritate], [illegible] cognosceret [illegible] quibusdam episcopis [illegible] [illegible] ad hunc usque privaret auth[oritate] pallii, et respondit Innocentius [illegible] privandus [illegible] auctoritate pallii, privatur pallii auth[oritate] quod episcopus auctoritatem pallii habet, [illegible] quatenus [illegible] solum Archiepiscopis concedi. Ad aliquibus solutionibus omissis dicendum hunc episcopum [illegible] speciali privilegio pallii auth[oritatem] obtinere, quod etsi [illegible] supponendum est, docet Barbosa in Collectaneis ad textum in d. cap. cum inimicitie de praesumptionibus. Nec obstat quod generaliter loquatur, nam debet [illegible] generaliter loquatur debent intelligi [illegible] attenta [illegible] tradita [illegible] Barbosa [illegible].

Deinde interpretat[ionem] ad textum in c. ex tenore [illegible] quaeritur an Archiepiscopus possit extra [illegible] pallium [illegible], et respondit [illegible] etiam extra [illegible] Archiepiscopus pallio uti posse [illegible] [illegible] privilegio [illegible] procedere, quod [illegible] [illegible] Barbosa [illegible] =

Deinceps interpretat[ionem] ad textum [illegible] [illegible] [illegible]

1. [illegible] Archiepiscopus Eboracensis pallio ac cruce [illegible] Angliam [illegible] Archiepiscopus a Romano Pontifice petiit ne [illegible] Archiepiscopus Eboracensis [illegible] pallium ac crucem deferret, [illegible] Pontifex [illegible] absque causae cognitione, ut pallio ac cruce extra suam provinciam [illegible]. Eboracensis Archiepiscopus replicavit [illegible] absque causae cognitione [illegible] pallio ac cruce [illegible] Archiepiscopus extra provinciam [illegible] pallio uti posse [illegible] Archiepiscopus uti posse pallio ac cruce [illegible] Archiepiscopus [illegible] pallio uti [illegible] Archiepiscopus pallio uti posse, [illegible] semper, quod privilegium [illegible] Romano Pontifice [illegible] Barbosa in Collectaneis [illegible] Romano Pontifici [illegible] privilegiis [illegible] [illegible] privilegium ad hunc [illegible] Archiepiscopus pallio extra [illegible] provinciam ac cruce uti, [illegible] [illegible] Proconsulibus licere insignibus dignitatis uti, [illegible] similiter Archiepiscopus [illegible] dignitatis [illegible] [illegible] [illegible] Proconsulis. [illegible] Clement. [illegible]

Viennensi celebrato anno 1311. relato in clem. de Archiepiscopo de privilegiis. quo cavetur aliquibus [illegible] nisi Archiepiscopi utipossint extra suas provincias, sed quivisque dignitate demonstrabant. [illegible] hoc [illegible] Libertate. = Rursus [illegible] in c. Quoniam 56 de consecrat. dist. 1. ubi [illegible] quid in die [illegible] debeat fieri respondit Nicolaus in primis, ab eius cantari debere [illegible] in excelsis Deo, et [illegible] Pallio [illegible] [illegible] in. [illegible] solus Archiepiscopus Pallio utitur. Et [illegible] hoc [illegible] Summi [illegible].

Rursus [illegible] in c. 15. de Vita et honest. Clericorum =

Deinde [illegible] in cap. 2. de [illegible]. =

[illegible] in c. 44. §. Caeterum de elect.

[illegible] 9 de [illegible]

[illegible] in summa [illegible] Pallium. Archiepiscopi et metropolitani.

C. unico [illegible] de sacra Unct.

Innocentius 3us. in cap. ad honorem 4. de auctor. et usu Pallii, qui gubernavit ecclesiam ex anno 1198. nobis iterum disputationem cum quem, offert, cuius decisio adeo elegans est et ad rem dicere, nulla in universo ad selectionem veritatis hanc vox cuius demonstratio ita fatur, auctorum singula de dictis. Ubi nemo est quod non videat duplicem dementiam, nisi Innocentius 3. duplex assertio cum quae magna dubia oriretur. Ubi est quando Pallii author ecclesiae, Praelati, interest ad omnes qualitates non Pallio utitur, quo sit ejus dictio, asserendo Romanum, idem semper, et ubique Pallio ex parte tanquam ... Cleri dignissimus, ac supremus Praesulis est que ejus cui omnis potestas semper concessa est, et tunc Venetus Praelatus in ecclesia tantum in qua iuris dictionem ecclesiasticam habent, Pallio uti debere, quod duplex responsum ... primo hoc Romanus Pontifex semper et ubique Pallio utitur, nec assertio nulla ... easdem habet, ... tamen ... omnes antiquiores ... praeter eos Anastasius Sirmondus ... adhuc ... Sebastianus, Caesar, de ecclesiastica hierarchia, 1. p. diu. 5. 6. 2. n. 5. Cerola, in praxi beneficiali ... Archiepiscopus hostiensis in summa n. 4. 5. quo ... n. 6. Durandus in rationali divinorum ... cap. 17. n. 13. Azor 2. p. lib. 3. cap. 34. Rodriguez, 7. regularum to. 1. lib. 1. cap. 14. ... rationali iuris Pontificii lib. 1. pagina 48. Petrus Gregorius lib. 15. syntagmatis. cap. 2. n. 22. Antonius Augustinus collect. 3. decretalium lib. 1. 4. cap. 2. Barbosa, in collectaneis ad hunc textum ... et de iure ecclesiastico tomo 1. c. 20. n. 35. quibus deinde plures ... hanc nostram decisionem exornantes

Scilicet hanc nostram diversos

Verissima sit, fidei quae nostra charitatis convenientia illius ... Dubitandi ratio, ... aliqua ratione. Romanus ubique Pallii ... habere, maxime quia plenam potestatem ... habet, hoc est omnes ... subiectus Pontifex ... et Imperatoris ... haec ratio subsistere non potest ... protoexemplum. Imperator ... ubi Archiepiscopus. Ubi ... Pallio ... 96. de ... Augusti dubitandi ratio ... hoc Romanos ... cedit.

> Pallii usus ... significet ... potest secundari ... parte.

Qua dupliciter dubitandi ratione non obstante dicendum est verissimum esse Innocentii 3. decisionem ... in primis dicendum est, pallium est insigne ornamentum ex lana candida confectum ... quod ex duobus agnis ... deducitur ... in monasterio Sanctae Agnetis ... festivitati eiusdem ... sanctae ... in missa solemni cantatur Agnus Dei ... a duobus canonicis Lateranensibus ... Subdiaconi Apostolici ... habet enim pallium circulum humeros constringentem, et duas ... constringens ... lineas ... pendentes ... duplex ... habet quatuor cruces purpureas ... Carthagena, ad hunc textum ... Durandus in rationali Divinorum officiorum lib. 3. cap. 17. ... quasi sanguine Christi purpuratas ... Ubi ... passiones scilicet ... crucem ... quarta ... gaudere, sperare, dolere, timere, gaudium, spem, dolorem, et ... timorem ... quatuor ... significans virtutes cardinales ... fortitudo, prudentia, et temperantia, et quia temperantiae virtus ... crux ... significat ...

Et docent alii ad hunc nostrum textum ... de ... Victore ... Innocentii in summa ... Pallium ... potestatis Pontificalis ... concilium Lateranense 4. ... Innocentius 3. anno 1215. ... Ubi ... licet ex ceremoniali ... Petri sumitur ... Pallii ... ab ipso Petro accipere ... Pallium ... Petri et Pauli ... Pontificem ... consecratur et ... integrum ... Archiepiscopo ... quem magna ... in nomine Patris, et Filii, et Spiritus Sancti, et in honorem Dei genitricis, et in honorem ... Petri et Pauli Apostolorum ... Pallium sumitur ... corpore Petri ... ex ceremoniali Romano ... de Pallio, Baronius 1139. n. 4. ... cap. 20. ... Patri Archiepiscopo ... Principes ... Petrus Gregorius ... syntagmatis cap. 2. n. 11. ... Pallii ... in Lombardia, ... in Tuscia ... Hungaria ...

Quinque ecclesiis

Ex ipsa nominationis qualitas [illegible] foret non ex grati ulari [illegible] privilegio intelligeretur. Durantis de ritib. ecclesiae lib. 2. cap. 9. n.° 43. Barbosa in collectaneis ad textum in cap. fin. h. t. n.° 3. et pluribus alijs relati. = Atque [illegible] Pallij concessio nec personae, nec dignitati [illegible] sed personae et dignitati simul ut constat ex cap. [illegible] Vel nulla dignitas habet honorem Pallij annexum [illegible] Archiepiscopus [illegible] immo semel [illegible] personae omittitur [illegible] ad aliam ecclesiam translatus [illegible] nova petenda pallij [illegible] bonae memoriae 4. de postulat. praelatorum, quod ideo persona [illegible] et non [illegible] Pallium [illegible] ut [illegible] debet, ut pelvem cap. 2. h. t. ubi Abb. et Host. unde [illegible] Ioannes [illegible] qui in [illegible] ecclesiae Romanae magnum damnum [illegible] ex eo quod [illegible] muneribus [illegible] Theophilacto Patri Archiepiscopo Constantinopolitano Imperatori [illegible] tenebat sub suae [illegible] Theophilacto Patri Archiepiscopo Constantinopolitano, [illegible] successoribus concederet, ut absque [illegible] permissu uterentur Pallio hoc [illegible] de facto [illegible] vituperandus [illegible] quae fuit [illegible] Graeci Pallijs [illegible] Venit haec omnia et alia [illegible] huius rei exempla tradit Baronius anno Christi 934.

Unde apparet [illegible] Innocentij [illegible] assertionem scilicet Romanum Pontificem ubi palia uti posse, cuius veritatis plures rationes ac varias reddere [illegible] me docuit ipse [illegible] in illis [illegible] quoniam assumptus est in plenitudine ecclesiasticae potestatis, centrum [illegible] Universalis totius ecclesiae potestatem concessam [illegible] Divo Petro et suis successoribus iuxta illud [illegible] Petrus, [illegible] cap. fundamenta, de elect. [illegible] in dicto cap. solitae de maioritate et obedientia, Extravaganti. Unam sanctam eodem titulo et text. in cap. per venerabilem qui filij sint legitimi cum pluribus alijs de [illegible] S. Bellarminus et Suarez, Praelati a S. Barbarano [illegible] de Rom. Pontifice § 1. [illegible] neque hanc veritatem [illegible] illa rationis consideratio quod si summus Pontifex omnium [illegible] Petro succedens legitime possit recte appellari universalis ecclesiae Praelatus [illegible] prohibuere, concilium Africanum in cap. [illegible] 99. dist. et Gregorius [illegible] in cap. [illegible] dist. [illegible] summus Pastor Universalis [illegible] nuncupari non posse non quod maioribus nequeat decorari nominibus [illegible] ecclesijs [illegible] propterea cuique pastori [illegible] non potest, ut docet Sebastianus [illegible] de Rom. Pontifice ubi sup. apparet, ergo ex [illegible] tantum ubi posse pallio uti, cum Divo Petro succedat a quo velut a capite [illegible] potestas dimanat, cap. fundam. de elect. [illegible] 6. [illegible] praelatorum [illegible] in propria ecclesia [illegible] pallio uti posset de quo latius infra. Ita docet Durandus, et Azor, locis supra citatis. =

Nec obstat illa dubitandi ratio quod [illegible] Romanum Pon. Imperatoribus subiectum fuisse hoc ergo de facto procedebat non [illegible] obstat textus in d. cap. [illegible] ut docet [illegible] [illegible] Pallio uti posse [illegible] Praelati praesunt, quod etiam [illegible] illud [illegible] intelligi [illegible] Abbas et Hostiensis [illegible] constet praesupponendum docet Glossa [illegible] quomodo Archiepiscopus [illegible] Praelatis [illegible] succedat nunc demonstrare, [illegible] Innocentius [illegible] tantum posse [illegible] ecclesia [illegible] pallij [illegible] quoad Archiepiscopos docet [illegible] in ecclesia sua quod [illegible] ex textu in cap. 2.° [illegible] in cap. 2.° et ex text. in [illegible] [illegible] 5. et ex cap. [illegible] 6. [illegible] de authoritate et usu Palli cap. ex [illegible] [illegible] cap. [illegible] cum pluribus alijs 100. dist. cap. 1.° [illegible] [illegible] cap. [illegible] Archiepiscopo [illegible] quia [illegible] privilegijs cap. [illegible] authores sup. relati. = Ut igitur cognoscamus [illegible] Archiepiscopo [illegible] qui praesunt tantum possint Pallio uti, sciendum imprimis est Archiepiscopus [illegible] fuerunt [illegible] ex cap. cleros 21. dist. et tradit Valensis [illegible] §. 1. [illegible] in sua provincia [illegible] praesunt iurisdictionem habere, ita ut omnes suffraganei qui exempti non sint [illegible] iudex ordinarius ut cap. pastoralis [illegible] ordinarij. Unde de omnibus [illegible] textus sive [illegible] agnoscit [illegible] summo Pontifici sint reservatae [illegible] [illegible] dignitati [illegible] Concilium Tridentinum sessione 24. cap. 29. de reformat. [illegible] ut docet [illegible] non habens potestatem [illegible] quod supra [illegible] hoc ad [illegible] quod nunc non [illegible] docuit eleganter Barbosa in remissionibus ad Concilium Tridentinum et Valensis loco supra citato, constat ergo Archiepiscopum maiorem esse dignitatem quam episcopi, proinde [illegible] pallio uti posse in sui ecclesia, et in

[illegible]

Ratio dubitandi deducitur ex textu in cap. 1. [illegible] hoc [illegible] ubi [illegible]

[illegible] in cap. [illegible] ratio dubitandi [illegible] pallio [illegible]

sequuntur

expressio

Iis diebus, quibus permissum est, in nativitate Domini, in [illegible], Sancti [illegible], in circumcisione, in epiphania, in [illegible], in cena Domini, in [illegible], resurrectionis, Pentecostes, in festivitate Sancti Joannis Baptiste et omnium Apostolorum, in [illegible] festivitatibus Beate Mariae Virginis, omnibusque aliis quae in concessione Palli accipientis fuerint permissa, [illegible] plena, in presenti [illegible] rationem [illegible] sequitur Abas, et Hostiensis in presenti, [illegible] Archiepiscopus, tunc consequitur palli authoritatem cum enixe et fortiter petat [illegible] tenebitur intra tres Menses, a die consecrationis, alias dignitate palliata carebit cap. 1.º 10 dist. Concilii Calce-

donense, act.^l 16. cap. 25. Vormaniense cap. 76. Trident. ses. 23. cap. 2. dummodo [illegible] aliquo impedimento malo aut pravi negatio non sit ingeditum cap. postulasti 5. dist. cap. quoniam 75. dist. Navarr. in manua li cap. 25. n.º 116. Henriquez, in summa, lib. 9. cap. 29. § 4. adeo verum est, stante Palli concessione Archiepiscopus non dicatur, unde iure non potuerunt, Concilium convocare, Chrisma conficere, Basilicas dedicare, clericos ordinare aut episcopos consecrare, omnia enim quae [illegible] siderant, consecrationem non possunt, ubi sunt sine pallio exercere, tradit Sanchez, in precepta decalogi tomo 1.º lib. 4. cap. 38. n.º 9. neque his obstat dicere episcopos confirmatos et consecratos posse ordinare, consecrare chrisma, conficere et Basilicas dedicare. cap. episcopi 24. dist. cap. si Archiepiscopus de temporibus ordinationum Trident. sess. 23. de reformat.^e cap. 2.º Divus Thomas, 3. p. q. 69.

articu. 4. ergo maiori rat.^e poterit Archiepiscopus hec omnia facere eum non deceat, esse deterioris conditionis ac simplex episcopus, arg.^to text. in lege. 3. C. de dignitatibus lib. 12. cum tradit [illegible] a Innocentio et hostiense, in presenti, [illegible] nihilominus. Respondetur ideo non licere Archiepiscopis hec facere absque Pallii susceptione quoniam non tanquam simplices episcopi, sed tanquam Archiepiscopi prohibita exercent. antequam ergo decoretur pallio, ecclesia viduata dicitur. arg.^to text. in cap. inter corporalia dist. [illegible] de translat.^e episcopi unde illa debet observari districtio, ut si Archiepiscopus ante Palli susceptionem ea exercuit quae ad pallium expectabant, erat [illegible] episcopus consecratus, si non consecratus erat, valent omnia quae circa potestatem ordinis exercuit. Licet contra canones peccet; ceterum si consecratus non sit, omnia sunt inutilia, ita Azor, 2. p. lib. 3. cap. 34. q. 5. et 6. Barbosa, in colectaneis ad hunc text. in presenti n.º 5. = [illegible] sciendum est Archiepiscopos in suis ecclesiis, pallio utentes non in omnibus actionibus, sed tantum in missarum solemniis uti, [illegible] si episcopos ordinet, [illegible] in ordinationibus clericorum [illegible] exercenda debet pallium petere, hac scilicet forma, ego Nicolaus, electus ecclesie Salmantine instanter et instantissime peto michi tradi, et assignari, pallium de corpore Sancti Petri sumptum in quo est plenitudo Pontificalis officii. Unde etsi sit concessum sibi pallium, uti non poterit, [illegible] si ad aliam ecclesiam translatus sit, neque predecessoris sui iam mortui docet Barbosa, d. tom. 1. de iure ecclesiastico cap. 7. in fin. [illegible] ergo [illegible] ex his, Archiepiscopos tantum in ecclesiis suis pallio uti posse, ratione [illegible] scilicet [illegible] ceteri prelati sunt vocati in partem sollicitudinis non in plenitudinem potestatis. dissimilis ergo est potestas Pontificis, ac Archiepiscoporum. hoc ergo iuxta [illegible] fuit institutum. nam cum Pontifex omnium superiorum supremus esset, et difficile esset, ut per se ecclesiam integram gubernaret, alios designavit Prelatos quos tamen [illegible] nominatos minorem potestatem obtinere, [illegible] et [illegible] expostulationibus. ergo non est, Archiepiscopos tantum in suis ecclesiis pallio uti posse Pontificem [illegible] vero, et [illegible] omnes [illegible] ex omnibus [illegible] constat, summum Pontificem ubique posse, pallio uti, Archiepiscopos tantum intra ecclesias suas, et ut verissime profiteamur, [illegible] ex quo [illegible] alii prelatos, recte posse in suis ecclesiis pallio uti, quod difficilius ex eo, nam episcopi aut alii [illegible] ecclesie [illegible] pallio uti, [illegible] hoc verbum alii [illegible] generale, omnes ecclesie prelatos comprehendens, [illegible] aut dicendum est episcopos pallio uti posse, aut hoc verbum alii generale esse. [illegible] dicendum est episcopos posse privilegio Pontificis Pallii authoritatem obtinere, sic que [illegible] procedere, ex speciali rescripto Pontificis

quo cavetur [illegible] scilicet recte possint hoc in suis ecclesiis [illegible] pallio, ita docet Abbas, [illegible] n.º 5.

omnibus infero, interpretatis ad text. in cap. antiqua 23. de privilegiis, [illegible] Petri archi Constantinopolitano, Alexandrino, Antiocheno, et Hierosolimitano, postquam [illegible] iuramento fidelitatis prestito pallium acceperint, suffraganeis suis pallium largiri, ergo non soli Archiepiscopi possunt pallio uti immo episcopi, quod quidem difficilius videtur ex illa consideratione, nam in ea dicta specie Archiepiscopi pallii authoritatem consequuntur, quamvis Pontifici reservatum est, iura proclamant et D.D. docent ergo falsum est [illegible] [illegible] deluendum [illegible], scripsit Abas, in

rubrica

Abbas in Rubrica huius tit. nº 2. qq non admittit dicendum est, privilegium inpugnans fuisse concessum Patriarchis ita ut ipsi possint Palii authoritatem suffraganeis suis concedere, neque tunc fuit Romani Pontificis authoritas, quia textus iuris principium sit idem esse qua Patriarchis per terram ac alii monomine textus in cap. quod facit pro ratione de Reg. Iuris. In praesenti ergo interfuit Pontificis authoritas per medium Patriarcharum personam. Ita docet Barbosa, in tract. Iuris ecclesiastici, lib. 1. cap. 6. nº 35. —

Rursus, ex ordine Is infero, [illegible] de textu in cap. cum in iuventute, 25. de praesumptionibus. hoc est opponitur specialiter, qui in [illegible] de [illegible] quod commiserat, de quo penes Hungariae Regem, fuit accusatus, qui a Romano Pontifice exigit ut hunc episcopum eiiceret, de sua ecclesia et ut eum privaret, de Palii authoritate. Summus Pontifex cum cognosceret ut dixi quod exigit utrumque tale delictum sit sufficiens ad hoc ut ipse privare exigit quibusque episcopis. Respondit Innocentius 3us. eum non privandum esse authoritate Palii, nec tum Palii authoritate quatenus non privatur Palii authoritate quod episcopus authoritatem Palii habet, [illegible] adversus [illegible], quatenus asserit Palii hoc Archiepiscopus concessit, et aliquibus solutionibus omissis dicendum hunc episcopum de quo in hoc textu ex speciali privilegio Palii authoritatem obtinere, quod et si non omittet, extra [illegible] praesupponendum esse. Docet Barbosa, in collectaneis ad textum in d. cap. cum in iuventute de praesumptionibus. nec obstat quod generaliter loquatur, nam debet, et si decisiones generaliter loquuntur debent intelligi, iuxis prius attentis et tradita hic a Barbosa ubi supra. =

Deinde in propter textum in cap.

Contra. 8. 100 distinct. ubi quaesitum est an Archiepiscopus possit extra ecclesiam suam pallio uti, et Respondit Gregorius, cum extra ecclesiam videlicet Archiepiscopus Pallio uti posse. Leo si hoc difficilimum videatur, facile [illegible] animadvertamus hoc ex privilegio Papae procedere, quod ex ipsomet sit ignotum. [illegible] consuetudini attendendum esse directe et recte, cum etiam [illegible] consuetudo, que [illegible] honesta sit igitur hoc privilegium summi Pontificis operatur, quod quidem verum esse et ita intelligendum esse docet Barbosa super decreto in d. cap. contra, 50 dist. =

Deinceps in propter Alexandri 3. Decretum Relatum cap. 1.

Ut lite pendente nichil innovetur. Ubi talis permittit speciem Archiepiscopus Eboracensis, Pallio ac cruce per totam Angliam utebatur, cumque hoc videret Cantuariensis Archiepiscopus, a Romano Papa petiit ne praedictus Archiepiscopus Eboracensis ubique Pallium ac crucem deferret, quo cognito Papa praecepit ut ab [illegible] causa cognita, ut pallio, ac cruce extra suam non uteretur provinciam. = Eboracensis Archiepiscopus replicavit se de hac quasi possessione ab eius causa cognita eiectum fuisse, quare ipse Papa praecepit quod [illegible] causa cognita ita factum ipse remaneret, in quasi possessione hoc pallio, et cruce extra [illegible] provinciam suam. Contra hunc textum difficilimum dixit Abbas. Nam quis est Archiepiscopus qui extra provinciam suam pallio uti possit, ut Pallio ac cruce quia in quasi possessione erat, si hoc intelligeret, ut ideo nam Archiepiscopus uti posset, nam hinc sufficit quasi possessio super [illegible], nichilaute [illegible] ut magis [illegible] sustineri non posset, quod Archiepiscopus ubique Pallio uti quare dicendum. Nam indico ideo Archiepiscopus Pallio uti posse semper vi privilegii. Hoc ab ipso Romano Pontifice [illegible] fuerat, ita docet Barbosa, in collectaneis ad hunc textum nº 2. Dº quod solutio illa innuit [illegible]. Nam privilegium concessum a Romano Pontifice per literas postea concessas revocari. argumento textus in 6. privare [illegible] quibus modis [illegible] infirmatur. Ad dicendum est revocari privilegium privat in 2º et 2º recte et recte, concessum est et 2º [illegible]. et [illegible] minime [illegible] harum litterarum impetratio facta fuisset a [illegible] citata per nulla mentione anterioris privilegii facta nichilominus primum privilegium adhuc durare, virtute cuius Archiepiscopus pallio extra suam provinciam ac cruce utitur ita docet Abbas, neque his omnibus obstat textus in lege 1. ff. de offic. Procons. et in leg. 2. C. de Proximis Sacrorum Cubiculi lib. 12. quibus iuribus [illegible] [illegible] licere [illegible] insignis sue dignitatis uti. Cum similiter Archiepiscopus 18 [illegible] illa de re [illegible] est, aut insignia demonstrantia dignitatem aut notant iurisdictionem in casu [illegible] quod [illegible] dignitas [illegible], videlicet in

signis

Solutio. haec obstat dicere ille qui usus est privilegio ut [illegible] lite pendente [illegible] non posse [illegible] 6. cui ipse privilegio [illegible] ideo [illegible] habuere privilegium quod adversus erat praesumpto iuris et capite ad [illegible] privilegio e cuius cumque fraudi et dolo patrocinandum. nisi [illegible] in [illegible] privilegio [illegible] possidentis. illa docet [illegible]

de oppositis insigniis —

insignis, absq. cum iurisdictione decretabatur necessarium privilegium. alias extra provinciam scilicet hanc distinctionem posuere Consultus, in d. l. 12. C. de praepositis sacri cubiculi l. 12. ff. a benevolentia rationali ad textum in d. l. ff. de officio Proconsulis, quo distinctionum facere intelligendum. venit Clementina unica in Concilio Viennensi celebrato anno 1311. relato in Clem. Archiepiscopo de privilegiis quo cavetur, aliquibus insigniis, Archiepiscopus uti posse, extra suam provinciam hoc est insigniis dignitatis demonstrabatur, ita docet Barbosa, loco supra citato = Auxerre in tractatu, textus in cap. porro § 6. de consecrat. distinct. 1. ubi cum quaereretur quid in die Coenae debeat fieri respondet Nicholaus in primis ab episcopis cantari debere Gloria in excelsis Deo, et postea Pallio uti apostolico in quo non solum Archiepiscopus pallio uti potest, scilicet Romani hoc cedere ex auth. Romani Praefecti = Auxerre inter plures textus in cap. 15. de vita et honestate clericorum = deinde textus in cap. 2. de maledicis = textus in cap. 6. textus de elect. = textus in cap. 9. de renunt. = Cuspe cum in summa ubi Pallium Archiepiscoporum et metropolitanorum = C. unico in f. de sacra unct.

Esta y la hanterior es una misma

9

Relectio ad Cap. Quia nos fin. de authorit. et usu palii——

Scheda M.

Relectio ad tex. in cap. quia nos fin. de auct. et usu pallii

Succedat nunc textus Honorii 3. Pontificis Maximi aliud tam nobile quam elegans Decretalis relatis in cap. quia nos fin. de auct. et usu pallii, ex cuius verbis recte colligitur dubitatum fuisse an Archiepiscopus tamen [illegible], quam in aliena dioecesi possit sine pallio, et sandaliis celebrare cui dubitationi [illegible] Pontifex respondens licere hoc ei posse, addens [illegible] propria dioecesi semper cum pallio celebrare [illegible] illis diebus duntaxat, qui in libro talis privilegii sunt contenti, et exprimi [illegible] producendis orare [illegible] dictis ornamentis Archiepiscopos non posse in hoc textu concluditur, nisi in speciali licentia [illegible] concessis.

Ex qua sanctione [illegible] cuius sensu [illegible] deducit solet sic se habet, Archiepiscopus potest celebrare absque pallio tam in propria, quam in aliena dioecesi, cum pallio vero et sandaliis tantum in sua propria provincia, et diebus ad hoc designatis, extra vero nullatenus [illegible] quae comprobatur ex textu in cap. 2 cap. 2 [illegible] 4. cap. ex tuarum 5. cap. cum [illegible] 6. hoc tit. de auct. et usu pallii cap. 2 [illegible] cap. pallium cum aliis 100. [illegible] apparet etiam ex Constantinopolitano Concilio sub Adriano 2 tempore Basilii Imperatoris anno 869 can. 27. [illegible] ubi statuta [illegible] et loca [illegible] ne [illegible] superius arrogantes et tradidit [illegible]

cap. fol. [illegible] quam [illegible] Panormitanus, D. Felinus, Joannes Andream, et alios [illegible] dictis [illegible], et [illegible] exornant et illustrant Host. in Summa [illegible] §. quod [illegible] 6. Augustinus [illegible] [illegible] Vivianus in rationali [illegible] Pontificis lib. 1. pag. [illegible] 48. Ant. Augustinus in [illegible] collect. Decretal. lib. 1. tit. 7. cap. 2. Cerola [illegible] [illegible] Archiepiscopus [illegible] ecclesiastica [illegible] cap. [illegible] pallio [illegible] Archiepiscopo et [illegible] Metropolitanus; Emanuel Rodriquez [illegible] regularium [illegible] 4. lib. 4. cap. 14. Durandus in rationali divinorum lib. 3. cap. 17. n. 18. Durantus de ritibus eccl. lib. 2. cap. 9. [illegible] 41. cum [illegible] [illegible] 2a [illegible] moral. lib. 3. cap. 34. q. 1. [illegible] Thomas Sanchez lib. 5. consiliorum cap. 1. dubio 16 [illegible] Sebastianus Cesar de Ecclesiastica hierarchia [illegible] 5. n. 5 [illegible] lib. 15. [illegible] cap. 2. n. 11. Ferramius [illegible] cap. 4. [illegible] lib. 1. [illegible] cap. 10. [illegible] de re beneficiaria [illegible] [illegible] Barbosa de Archiepiscopo [illegible] lib. 4. n. 41. idem Barbosa lib. 1. de [illegible] ecclesiastico tit. 1. cap. 7. n. 10, idem Barbosa collect. ad [illegible] [illegible], quibus locis plures alios [illegible] refert hanc [illegible] exornant [illegible]. =

n. 1. Verum licet [illegible] authoritatibus [illegible] exornata [illegible] sit, difficilis [illegible] ex recentiori [illegible] asserimus namque [illegible] Archiepiscopus [illegible] provincia tantum pallio uti posse [illegible] privilegio [illegible] exercere [illegible] maxime [illegible] in illis locis, qui suae iurisdictioni [illegible] subiecta [illegible] videretur [illegible] Archiepiscopi [illegible] exemptis, in quibus nullus [illegible] habent [illegible] facere cruces ante se [illegible] benedicere [illegible] similia facere et denique [illegible] est [illegible] pontificalibus celebrare [illegible] Archiepiscopo [illegible] asseritur Archiepiscopus tantum in locis [illegible] subiectis [illegible] posse [illegible] minime [illegible].

n. 2. Secunda difficultas adversus [illegible] nascitur ex decis. [illegible] cap. [illegible] hoc tit. de auct. et usu pallii, ubi Innocentius 3. cum quoddam Archiepiscopo [illegible] in Missarum celebrationibus [illegible] diebus solemnibus usus pallii [illegible] liberius exercere [illegible] [illegible] manifeste colligitur Archiepiscopus ubique pallio uti posse; [illegible] contra [illegible] Honorius 3. [illegible] [illegible] ad loca [illegible] Archiepiscopi [illegible]. =

n. 4. Denique [illegible] cap. ex tuarum 5. hoc tit. [illegible] manifeste, [illegible] Archiepiscopus pallio [illegible] uti posse, [illegible] in Hispania, [illegible] observata [illegible] [illegible] hoc est [illegible] posse [illegible] exemptis [illegible]. =

n. 5. [illegible] dubitandi [illegible] non obstante [illegible] Archiepiscopus sine pallio in propria et in aliena provincia posse celebrare, [illegible] pallio, et sandaliis [illegible]

C

tantum posse celebrare in locis suae provinciae subiectis, et in diebus ad id specialiter concessis, et non ultra amplius minime. Cumque contrarias ut addiscamus aliqua valde utilia, et maxime necessaria quae pallium magis et universitatem dictorum Archiepiscoporum proponere opus est; et in primis animadvertimus pallium esse insigne ornamentum ex lana candida contextum, quae ex duobus agnis deducitur, qui quotannis in monasterio Sanctae Agnetis in die festivitatis eiusdem Sanctae, dum in Missa solemni cantatur Agnus Dei, offeruntur, et a duobus Canonicis Lateranensibus recipiuntur, et ab eis postea consignantur Subdiaconis Apostolicis, qui huiusmodi agnos in pascua mittunt, usque dum tempus opportunum tondendi veniat. Habet pallium circulum humeros constringentem et duas lineas ab utraque parte ante et retro pendentes; a sinistris est duplex, a dextris simplex; in super habet quatuor cruces purpureas, non nigras, ut voluit Cartagena ad hunc textum, et ut vulgo depingitur, quia a sanguine Christi purpuratae, ut docet Durandus in rationali divinorum officiorum cap. 17. in pallio, quae tres cruces cum aculeo sunt, quarta sine eo; nam cum per las significentur quatuor, scilicet gaudium, spes, et dolor cum timore, quia magis debemus gaudere, sperare, et dolere quam timere. Vel per eas significentur virtutes Cardinales, iustitia, fortitudo, prudentia, et temperantia, et quia temperantia virtutes alias excedit, ideo eius crux sine aculeo significatur, ut docent Abbas in dicto cap. ad honorem, Host. in summa huius tituli, et Hugo de Sancto Victore in [illegible] de sacris, et alii ex [illegible] relatis =

n.o 6. Plurimum sciendum est pallium significare plenitudinem potestatis Pontificalis, ut constat ex textu in cap. nisi specialis 3. cap. ad honorem 4. hoc titulo, et ex Concilio Lateranensi 4.o sub Innocentio 3.o anno 1215. cap. quod quidem ad hoc institutum fuisse a Lino Papa testatur Eusebius in Sermone de Epiphania, et deducitur ex Ceremoniali Romano cap. de pallio. Verum pallium huius dignitatis insigne in plenitudine [illegible] a corpore Divi Petri sumitur, cap. significasti 4. de elect., ut significetur Praesules palliatos eminentiam dignitatis ab ipso Petro accepisse. Igitur pallium ad aram Divorum Petri et Pauli defertur, ubi solemnibus recitatis precibus a Pontifice consecratur, et in nocte integra ibi relinquitur, mane recipitur, et servatur, donec alicui Archiepiscopo deferatur, ad quem magna cum veneratione mittitur, et dispensatum accipit ipse a Priore Diaconorum his verbis. In nomine Patris, et Filii, et Spiritus Sancti, et in honorem Dei Genetricis et in honorem Sanctorum Petri et Pauli Apostolorum, et Domini N. Papae, tradimus tibi pallium sumptum de beatissimo corpore Petri Apostoli, ut utaris intra Ecclesiam diebus permissis, constat ex Ceremoniali Romano cap. de pallio, tradit Baronius anno 1179. Parcinola [illegible] thesauri variarum lectionum cap. 10. Ex quibus apparet in solis Romanis Pontificibus pallium [illegible] immo et Patriarchas, et Archiepiscopos, Patriarchas ex eo quod eorum locum post Papam habent; Archiepiscopos, quia Principes Episcoporum sunt, textus in cap. Cleros § Patriarchae, et § Archiepiscopi 21. distinctione tradit [illegible] Greg. [illegible] loco [illegible]. Et ex singulari Pontificis privilegio quibusdam Episcopis pallium indultum est, ut Hostiensi et Papiensi in Italia, Lucensi in Tuscia, Quinque Ecclesiensi in Ungaria, tradit Barbosa in collect. ad verum textum n.o 3. cum plurimis a se relatis Durantus de ritibus [illegible] lib. 2. cap. 9. n.o 43. =

n.o 7. Amplius animadvertimus hanc dignitatem palliatam esse [illegible] necessariam, nec dignitati dumtaxat concedi, sed potius personae, et dignitati simul, ut constat ex textu in [illegible] supplicasti quod diremimus, vel nulla dignitas per se habet honorem pallii annexum; licet frequenter soleat Archiepiscopis concedi, ut constat [illegible], imo indulto personae comitatur; nam si per nova concessio pallii opus est, cap. bonae memoriae 4. in fine de postulat. praelatorum, quod in eius adeo personale est, ut non valeat alteri commendari, et cum eo palliatus debet sepeliri, cap. hoc titulo. ubi Host. et Abbas Panormitanus notant. Verum licimus [illegible] Romanum magnum [illegible] immunem esse, quod Alberius [illegible] muneribus [illegible] coegit Ioannem undecimum [illegible] sub [illegible] et ad Theophilatum Patriarcham Constantinopolitanum Imperatoris filio, huiusque omnibus [illegible] successoribus concederet, ut absque Pontificis permissione uteretur pallio, hoc [illegible] facto rogavit, [illegible] anno 934. Similiter [illegible] quo Graeci palliis utebantur [illegible] venit, ita docente, et plura alia huius rei exempla proponente Baronio anno Christi 934. =

Denique

n.º 18. Denique propositi adnimum tuum accedentes notamus, Archiepiscopos, qui diversi modo olim fuerunt nuncupati, ut constat ex cap. [illegible] et tradit [illegible] ad hunc [illegible] §. 1. eorum potestatem ordinariam in sua provincia, cui præsunt iurisdictionem habere, itaut omnes suffraganeos, qui exempti sunt [illegible] attendant, [illegible] que iudex ordinarius est, cap. pastoralis de off. ordinarii. [illegible] de omnibus causis eorum sive civilibus, sive criminalibus cognoscit, nisi causæ criminales summo Pontifici sint reservatæ, [illegible] depositionis seu privationis dignitatis, vel officii mereantur, tunc summo Pontifici cognitio reservatur [illegible] Trid. sess. 24. cap. 5. de reformat., ubi etiam docetur Archiepiscopos regulariter non habere potestatem in subditos suffraganeorum, nisi aliquo titulo hoc adquisierint, quam rem nunc [illegible] docuit eleganter Barbosa in remissionibus ad [illegible] Trid. loco citato. Constat etiam quod Archiepiscopi maiorem [illegible] dignitatem quam episcopi, proindeque pallio uti poterunt suis locis, et in diebus [illegible] S. [illegible] Domini, in festivitate Sancti Ioannis Baptistæ, omnium Apostolorum, in festivitate Sancti Stephani, circumcisionis, in Epiphania, in Palmis, in Cœna Domini, in Sabbato Sancto, in tribus diebus resurrectionis, et Pentecostes, et in tribus festivitatibus Beatæ Mariæ, et in [illegible] aliis, qui in [illegible] pallii accipienti fuerunt permissi; ita docet [illegible] cap. ad honorem 4. verbo ad honorem [illegible] quam [illegible] Abbas et Host. in d. cap. 4. Et Archiepiscopus tenetur [illegible] pallii [illegible] [illegible] intra tres menses a die consecrationis, alias dignitate palliari caruit cap. [illegible] 100 dist. [illegible] act. 16. cap. 25. [illegible] cap. 76. Trid. sess. 23. cap. 2. dummodo iusto aliquo impedito [illegible] impeditus, cap. [illegible] 50 dist. cap. quoniam 75. dist. Navarrus in manuali cap. 25. n.º 126. [illegible] in Summa [illegible] 9. cap. 29. § 4. [illegible] utantur pallio [illegible] Archiepiscopi [illegible] potuerunt scilicet [illegible] crisma conficere, basilicas dedicare, clericos ordinare, [illegible] [illegible] qui [illegible] consecrationem [illegible] ab ipsis sine pallio exercen. cap. ad [illegible] 28, [illegible] tradit Thomas Sanches in [illegible] decalogi 10. [illegible] 4. cap. 38. n.º 9. =

n.º 19. Nec [illegible] obstat dicere [illegible] confirmatos, et consecratos [illegible] ordinare, consecrare, crisma conficere, et basilicas dedicare, cap. episcopi [illegible] cap. [illegible] Archiepiscopus [illegible] ordinat. [illegible] Trid. sess. 23. de reformat. cap. 2. D. Thomas [illegible] q. 69. art. 4. [illegible] maiori ratione poterit Archiepiscopus [illegible] facere, [illegible] debeat esse deterioris conditionis ac simplex episcopus arg. [illegible] l. 3. C. [illegible] tradit [illegible] Imola et Host. in d. cap. ad honorem 4. [illegible] Respondetur [illegible] licere Archiepiscopo [illegible] facere [illegible] suscepto, quia [illegible] tanquam Archiepiscopi [illegible] exercent, antequam pallio decorentur [illegible] arg. [illegible] cap. inter corporalia [illegible] de translat. episc. [illegible] illa debet observari [illegible] Archiepiscopus qui ante pallium susceptum ea exercuit, [illegible] ad pallium [illegible] erat tamen [illegible] consecratus, [illegible] consecratus erat valent omnia, [illegible] exercuit, licet [illegible] [illegible] ceterum [illegible] sunt inutilia; ita [illegible] inst. moral. [illegible] 3. cap. 34. q. 5. et [illegible] Barbosa in collect. [illegible] cap. ad honorem 4. [illegible] n.º 4. =

n.º 20. Quibus ita [illegible] apparet iam verissimum esse [illegible] V. Archiepiscopi [illegible] [illegible] archiepiscopale; [illegible] provinciis [illegible] gio concessis, extraordinarie [illegible] ut [illegible] [illegible] gubernaret, alius [illegible] inter quos fuerunt Archiepiscopi, qui [illegible] maiorem habent auctoritatem quam episcopi, [illegible] dignitatem [illegible]. Quare [illegible] provinciam suam [illegible] possint [illegible] constat; nam [illegible] potestas Pontificis, ac Archiepiscopi, [illegible] namque in plenitudine potestatis [illegible] Archiepiscopus [illegible] cap. ad honorem 4. [illegible] [illegible] potestas est Pontificis [illegible] Archiepiscopi [illegible] [illegible] Archiepiscopus in provincia sua tantum pallio [illegible] [illegible] [illegible] pallio uti [illegible] tradit [illegible] exer. 30 [illegible]. Verum licet dicamus Archiepiscopum pallio [illegible] habemus [illegible] hoc [illegible] [illegible] solemnibus, [illegible]

Decret

conferat, vel iurisdictionibus Seniorum ad [illegible] exercenda deberet [illegible] quod [illegible] hoc modo fieri debet. Ego N. electus in [illegible] N. instantius [illegible] [illegible] de corpore Sancti Petri sumptum, in quo plenitudo Pontificalis officii, ita docet, et sequitur hic [illegible] [illegible] ad hanc rem accedentia Barbosa [illegible] de [illegible] Ecclesiastico cap. 7. [illegible] =

nº 11. Sic tamen [illegible] quamquam [illegible] dubitandi [illegible] [illegible] adduct. Non [illegible] deducta ex [illegible] Clem. [illegible] privilegiis, quo probabamus Archiepiscopos etiam extra loca suae provinciae pallio uti posse, propterea [illegible] in locis exemptis videatur probare [illegible] Clementinus [illegible] [illegible], nam dicendum est in [illegible] Clem. 2. [illegible] [illegible] Archiepiscopi in locis exemptis pallio uti posse, verum [illegible] extra [illegible] extra provinciam suam pallio uti debere, [illegible] dicta Clem. [illegible] excedit limites [illegible], loquitur [illegible] in locis exemptis, verum [illegible] in locis eiusdem provinciae, [illegible] [illegible] sequitur [illegible] exemptis [illegible] est de provincia; itaque [illegible] [illegible] fuit concedere Archiepiscopis ut [illegible] loca tam exempta [illegible] exempta eiusdem provinciae pallio uti possent; [illegible] Clemens [illegible] Clem. 2. de privilegiis. In cuius confirmationem facit illud [illegible] [illegible] concessio fructus beneficiorum, quae in aliqua provincia vacaverint, [illegible] anni spatium in solis intelliguntur beneficia [illegible] exempta, verum [illegible] exempta, dum [illegible] provinciam sint, ad hoc ut illa, cui talis concessio facta fuit, valeat ex his omnibus beneficiis fructus capere, ita tradit eleganter [illegible] exempla ad hanc rem pertinentia adducens Bonifacius de Vitalinis [illegible] Clem. 2. de privilegiis [illegible] [illegible] =

nº 12. Minus obstat 2ª difficultas orta ex decisione [illegible] in cap. [illegible] 6. hoc [illegible], ex quo probabamus Archiepiscopum semper, ubique pallio uti posse [illegible], [illegible] [illegible] duplici modo posse intelligi. 1º [illegible] illud ubique ubicumque ita deberet intelligi, [illegible], in quibuslibet locis suae provinciae subiectis; vel 2º respondendum [illegible] illud procedere ex speciali, et singulari privilegio Summi Pontificis, [illegible] [illegible] [illegible] [illegible] sit [illegible] licet regulariter Archiepiscopis solis concedi soleat palliis [illegible] in locis suae provinciae, [illegible] concederetur [illegible] [illegible] semper, ubique, ita tradit Albericus, Panormitanus, Felinus, [illegible] qualitas [illegible] [illegible] [illegible] in [illegible] extravag. 3. hoc [illegible] [illegible] adducti, [illegible] [illegible] posteriora [illegible] [illegible]

nº 13. Ex quibus omnibus [illegible] [illegible] [illegible] [illegible] insigne textum habile Alex. 3. Decretum [illegible] in cap. 1. ut lite pendente [illegible] [illegible] [illegible] [illegible] Archiepiscopus Eboracensis [illegible] pallio [illegible] per universam Angliam utebatur, cumque [illegible] Archiepiscopus Cantuariensis a Romano Pontifice petiisset [illegible] Archiepiscopus Eboracensis ubique pallio, ac cruce [illegible], quo proposito Pontifex [illegible] [illegible] causam [illegible] ut pallio, ac cruce extra suam provinciam [illegible]. Eboracensis Archiepiscopus [illegible] dicens [illegible] [illegible] [illegible] aliqua causae cognitione [illegible] fuisse, quare ipse Pontifex [illegible] [illegible] aliqua causae cognitione ita [illegible] fuit ipse remaneat in quasi possessione, hoc est ut [illegible] Archiepiscopus pallio, et cruce extra suam provinciam [illegible] [illegible] ex cuius decisione aperte videtur colligi Archiepiscopum etiam extra provinciam suam pallio [illegible] [illegible] [illegible] [illegible] [illegible]. Hinc [illegible] difficilius [illegible] Albericus in [illegible] cap. [illegible] 4. hoc [illegible] [illegible] [illegible] [illegible] [illegible] Archiepiscopus etiam extra provinciam suam cruce, ac pallio uti posse, [illegible] in quasi possessione. Sed hoc [illegible] [illegible] non [illegible] sufficit quasi possessio [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] quasi [illegible] [illegible] aut [illegible] aut [illegible] [illegible] [illegible] quam [illegible] Archiepiscopus semper, ubique pallio [illegible]. [illegible] hac solutione, [illegible] [illegible] [illegible], quas [illegible] antiquiores [illegible] cap. 4. hoc [illegible] [illegible] [illegible] in cap. 1. ut lite pendente Archiepiscopum etiam extra provinciam suam cruce, ac pallio uti posse, [illegible] ad hoc [illegible] ipso Romano Pontifice [illegible] [illegible] quippe Romanus Pontifex [illegible] [illegible] in [illegible] [illegible] [illegible] [illegible] aliqua de causa [illegible] concedere [illegible] in cap. 1. [illegible] Archiepiscopo Eboracensi ut etiam loca suae provinciae pallio uteretur, quam solutionem tradit Barbosa in collect. ad [illegible] cap. 4. [illegible] =

nº 14. Contra hanc solutionem [illegible] [illegible] [illegible], privilegium [illegible] a Romano Pontifice [illegible] postea [illegible] revocari, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] similiter [illegible] [illegible] [illegible] [illegible] [illegible] pallio uti [illegible] possent; [illegible] [illegible] revocari privilegium [illegible] privilegii facta [illegible] [illegible] privilegii ad [illegible] [illegible] [illegible] Archiepiscopus extra provinciam [illegible] cruce, ac pallio [illegible]

[illegible]

Nec his omnibus obstant text. in l. 1. ff. de off. proconsulis, et in l. 2. C. de offic. Sacri Cubiculi lib. 12. ex quibus iuribus aperte depromitur proconsulibus licere insignia sui dignitatis uti semper, et ubique et similiter Archiepi. pallio uti poterunt ubique. Cuius difficultatis diluendae causa dist. illa est observanda, aut enim insignia demonstrant dignitatem aut denotant iurisdictionem. Primum esse, quod demonstratur dignitas, ubilibet licitum est uti insignijs, et tunc procedunt predictae leges, at ubi iurisdictio denotatur, nec e privilegio aliud eis uti extra provinciam licet, quo casu procedit text. in d. cap. 1. ut sic pendens hanc dist. docuere Cujacius in d. l. 2. C. de officio Sacri Cubiculi lib. 12. Faber in rationali ad text. in d. l. 1. ff. de off. proconsulis. =

n.º 25. Alius inde infertur intellectus ad text. in cap. antiqua 23. de privilegijs, ubi permissum est Patriarchis Constantinopolitano, Alexandrino, Antiocheno, et Hierosolimitano, postquam ipsi iuramentum fidelitatis et obedientiae accepissent, suffraganeis suis pallium largiri, quod non solum Archiepi. pallium uti, immo et episcopi, quod quidem difficillimum videtur cum illa concederat; nam in dicta specie Archiepi. palli authoritas et dignitas excesserunt, quod solus summo Pontifici reservat. et iura proclamant, et DD. docent, quod in re dictum est Archiepis tantum pallij usus concedendus est. Cuius difficultatis diluendae causa, aliqua DD. et Abbas in rubrica eiusdem tituli n.º 2. Quibus admittimus dicendum est privilegium hoc fuisse concessum Patriarchis ita ut ipsi possint pallij dignitatis exercitium suffraganeis suis concedere; nec tunc deficit Romani Pontificis auth. cum iure certissimum sit idem esse quem aliquid facere ac alium pro eo committere text. in cap. quid facit de R. I. in 6.º et quod ibi fuit Pontificis auth. per mediam Patriarcharum personam, qui vices Pontificis gerebant, ... etiam dispositiones iuris, ... ex privilegio singulari, ita tradit Barbosa in tractatu de iure eccles. lib. 1. cap. 8. n.º 33 cum pluribus sequendus. =

n.º 26. Deinde intelligendus venit text. in cap. cum in iuventute 25. de praesumptionibus, ubi hic proponitur species: episcopus Quinqueclesiensis delictum quoddam commiserat, de quo penes Ungariae Regem fuit accusatus, qui a Romano Pontifice expetijt ut hunc episcopum dicto tali delicto, et ut liquet a sollicitudine, et dignitatis auth. privaret. Summus Pontifex cum hoc cognosceret, ... quosdam episcopos et requisiverunt utrum tale delictum sufficeret ad hunc episcopum privaretur auth. pallij, et respondit Innoc. 3. cum predictum episcopum ... talem episcopum privandum esse ab auth. pallij, quia hac dignitate episcopi privantur, ex quo est quod episcopi ... pallio uti ... text. et text. in d. cap. lib. tit. ... hanc dignitatem solis Archiepis concedi solere. = Cuius difficultatis dissolvendae gratia aliqua minus curantur antiquiores ... iuribus. Verum melius erit dicere episcopum hunc de quo in d. cap. cum in iuventute ex speciali, et singulari Pontificis privilegio pallij auth. obtinere, quod ... licet ... textus non ... tamen hoc supponendum esse necessarium esse a fortiori existimamus sequentes doctrinam traditam a Barbosa in d. cap. cum in iuventute 21. de praesumptionibus. Nec quidquam obstat dicere text. in d. cap. cum in iuventute ... generaliter debere intelligi arg. text. in l. ... distinguere ... arbitrij; nam ... tam in Canonico quam in Caesareo iure deciditur generaliter ... aliqua ... iuris ... attento ... aliquo ... adjicet text. in d. cap. cum in iuventute asserat ... episcopum ... de suo pallio ... procedat ex singulari Pontificis privilegio, ut ... =

n.º 27. Deinceps ex vi decidendi ... intelligendus ... text. in cap. ... 3. de ... relatum in cap. ad supplicationem de renunciatione, ubi talis proponitur species. Archiepiscopus ... licentiam impetravit a Romano Pontifice ... quam ... deserere ... secure ... posse ... qua licentia obtenta ... deseruit, ... in ... optibus ... Clericalis ... Archiepiscopus ... eligeretur, ... fuit collatio benefficii ... Archiepiscopi, ... Pontifex ut tale beneficium Archiepiscopus qui renunciaverat, ... eodem ... cuius erat beneficii collatio sibi haberet absque ... pallij ... episcopale exercere; cum tunc in hoc ... quod pallio uti ... possit Archiepiscopus ... iurisdictionem ... subiectos, quod ...

Si exceptis locis in quibus potest pallio uti adversus [illegible] in urbe [illegible] docemus. Sed hic difficultas [illegible] dissolvi potest si dicamus mentem Innocentii 3.i in dicto cap. ad supplicationes [illegible] ad Archiepiscopum ille [illegible] qui [illegible] Archiepiscopus [illegible] pallio [illegible] Archiepiscopus [illegible] dimiserat, nempe quod Archiepiscopus [illegible] committi [illegible], vel alio modo locis [illegible] debebat, ut supra dicebamus, cap. [illegible] 4.o in [illegible] de postulatione praelatorum, [illegible] pallium ei adimi [illegible] eiusdem loci transmi[tti] [illegible] ex quibus [illegible] colligitur Archiep[iscopum] de [illegible] ad alium translatum pallio uti posse, quamvis adhuc [illegible] obtineat [illegible], [illegible] villam non obtineat, pallio [illegible] utatur quemadmodum [illegible] in dicto cap. ad supplicationes 9. [illegible] quae [illegible] vera [illegible] inter [illegible] tradita ab [illegible] in [illegible] aliis. =

n.o 18 Pro [illegible] interpretandis [illegible] in cap. 8. 100 d. ubi quaeritur an Archiepiscopus possit extra [illegible] pallio uti, et respondet [illegible] extra [illegible], et ubilibet Archiepiscopum pallio uti posse. Sed si hic difficillimum videatur, [illegible] facile diluitur, si animadvertamus de ex privilegio Pontificis procedere, quod [illegible] apparet, nam [illegible] attendendum docet, [illegible] cum illa [illegible] consuetudo, quae [illegible]; igitur hoc privilegium Summi Pontificis operatur, quod quidem [illegible] intelligendum docet [illegible] in dicto cap. 3.o = Quae [illegible] intelligendum [illegible] in cap. [illegible] 56. de [illegible] dist. 1. ubi cum quaereretur quid in die [illegible] debeat fieri respondet Nicolaus in primis ab episcopis cantari debere Gloria in excelsis, et postea pallio Apostolico [illegible], quod procedit ex auctoritate Summi Pontificis, nec [illegible] [illegible], ex quibus potestatis [illegible] habet, [illegible] dignitates [illegible] potest [illegible] Archiepiscopus [illegible] uti [illegible] pallio utantur, [illegible] pallio uti [illegible], pallio utantur ita tradit Barbosa in collect. [illegible] in d. cap. 3.o 100 d. = [illegible] 4. [illegible] aliis [illegible] ex [illegible] alios praelatos recte posse [illegible] pallio uti, quod probat illud [illegible] aliis, quod generale [illegible] alios [illegible] Archiepiscopos [illegible] videtur, quod [illegible] ex speciali [illegible] privilegio ex supra tradita ra[tione] [illegible] interpretandum [illegible] in cap. Clerici 15. de vita et honestate clericorum [illegible] ex privilegio [illegible] palliis [illegible] in publicum [illegible], igitur decreta [illegible] privilegio Pontificis qui voluit partem privilegii palliis [illegible] concedere, et [illegible] decreta tan[illegible]lo [illegible]. Verum [illegible] de pallio, [illegible] de aliis [illegible] palliatis. =

n.o ult Pro [illegible] animadvertimus plura alia [illegible] nunc nos posse interpretari, verum [illegible] quamvis [illegible], contenti [illegible] alia [illegible], quae de pallio loquuntur simpliciter referre, ad hoc ut [illegible] necessitate [illegible] voluerint [illegible] interpretari [illegible] inveniat, vel [illegible] aliquo [illegible] placeat [illegible] videre [illegible] in cap. 1.o de [illegible] in cap. Statuimus 2. de maledicis, [illegible] in cap. nihil 44. §. [illegible] elect. et electi pot. [illegible] in cap. unico [illegible] de [illegible], [illegible] in cap. quod sicut 28. §. [illegible] de elect. et [illegible] in cap. 4. [illegible] de postulatione praelatorum =

Excumunicaçion viernes 28 de [illegible]

Relectio ad tex. in cap. Quamvis fin. de Ætate et qualit. et ordine præfic. Lib. 1. tit. 14.

Scheda. 12ª

[illegible]

[illegible] [illegible]

[illegible]
[illegible]
[illegible]

In hoc cap. finali [illegible] cum illustri [illegible] materia de Scientia necess[aria] [illegible], plures agimus [illegible], quod [illegible] [illegible], et [illegible] observantes [illegible] [illegible], itaque [illegible] Tit. [illegible] de [illegible] [illegible], quod [illegible] [illegible] adversus [illegible] [illegible] [illegible] ut tanquam indigenus [illegible] [illegible] [illegible], inter quos fuit unus qui ipse grammaticam penitus ignoraret, et nunquam [illegible] [illegible] [illegible], [illegible] [illegible] cum [illegible] [illegible] et [illegible] evidenter [illegible] scientia [illegible] [illegible] noster Honorius [illegible] emendare curavit, [illegible] [illegible] remedium [illegible] [illegible] [illegible], et [illegible] [illegible] [illegible] [illegible] duxit, [illegible] [illegible] [illegible] omnimodo [illegible] Dei, et [illegible] [illegible]. =

Ex [illegible] [illegible] [illegible] [illegible] [illegible], [illegible] [illegible] Scientiam [illegible] [illegible] [illegible] qui admittantur ad dignit[ates] [illegible] [illegible], [illegible], [illegible] quamque [illegible] [illegible] cap. [illegible] [illegible] [illegible] [illegible] [illegible] 4. [illegible] [illegible] de [illegible] et qualit[ate], cap. Cum [illegible] [illegible] [illegible] [illegible] cap. [illegible] 22. cap. [illegible] 44. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] cap. [illegible] 8. de [illegible] [illegible] cap. [illegible] 29. [illegible] [illegible], cap. [illegible] de [illegible] 19. cap. [illegible] 8. [illegible] [illegible] cap. [illegible] 24. cap. [illegible] 24. [illegible] 5. cap. [illegible] [illegible] [illegible] de [illegible] cap. [illegible] 24. [illegible] cap. [illegible] 23. [illegible] 34. [illegible] cap. [illegible] [illegible] [illegible] cap. [illegible] [illegible] [illegible] 36. [illegible] [illegible] [illegible] 36. [illegible] cap. [illegible] [illegible] [illegible] [illegible] [illegible] de [illegible] et qualit[ate] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] cap. 2. 8. et 13. [illegible] 22. de reformat[ione] cap. [illegible] 4. [illegible] [illegible] [illegible] de reformat[ione] cap. [illegible] 12. et 18. de [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 31. [illegible] 8. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible], Panormitanus [illegible] [illegible] Andreas, Hostiensis, et Felinus, [illegible] [illegible] [illegible] [illegible] Canonicarum [illegible] cap. 26. [illegible] [illegible] Nicolaus Garcia de benefic[iis] [illegible] 7. [illegible] 4. n. 31. Gonzalez ad reg[ulam] [illegible] Cancellariae [illegible] 4. n. 4. Navarro [illegible] cap. [illegible] 5. [illegible] [illegible] 12 [illegible] [illegible] [illegible] [illegible] de [illegible] benefic[iis] [illegible] [illegible] Solorzano [illegible] [illegible] 21. [illegible] [illegible] [illegible] [illegible] 2. cap. 8. q. 9. et 16. q. 1. [illegible] Alvarez [illegible] [illegible] [illegible] [illegible] 2. [illegible] [illegible] [illegible] [illegible] [illegible] 1. [illegible] [illegible] [illegible] [illegible] [illegible] 223. [illegible] [illegible] [illegible] [illegible] 425. et 426. [illegible] [illegible] [illegible] [illegible] 49. q. 9. n. 9. Barb[osa] [illegible] [illegible] [illegible] [illegible] et alii plures [illegible] Barbosa [illegible] [illegible] n. 1. [illegible] cap. Cum [illegible] [illegible] 8. de elect. et electi potest[ate]. =

Verum licet [illegible] [illegible] [illegible] [illegible] authorum testimoniis [illegible] [illegible] [illegible], difficilius tamen redditur ex sequentibus [illegible], et [illegible] adversus [illegible] [illegible] Scientiae [illegible] [illegible] ad obtentionem [illegible] [illegible] ad [illegible] cuiuslibet [illegible] benefic[ii] [illegible] canonica [illegible], cap. benefic[ium] de [illegible] [illegible] de [illegible] [illegible] [illegible] [illegible] [illegible] cap. [illegible] [illegible] cap. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] benefic[ii] [illegible] nomen meretur ex omnium canonistarum concordi [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] vel a Pontifice, vel ab [illegible] [illegible] [illegible] a Sede [illegible] [illegible] [illegible] [illegible] [illegible] Scientia ad talis dignitatis obtentionem [illegible] [illegible] [illegible] [illegible] [illegible] et [illegible] dignit[ates] [illegible] [illegible] [illegible] fuerit. =

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Scientia [illegible] [illegible] [illegible] [illegible] [illegible], [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] caritate [illegible] Scientia [illegible], quod aperte [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible], Scientia inflat, caritas aut[em] [illegible], [illegible] [illegible] Scientiae [illegible] [illegible] caritatis [illegible] [illegible] [illegible] [illegible] Scientiae [illegible] [illegible] caritas [illegible] [illegible] [illegible] [illegible] [illegible] ut [illegible] [illegible] dignit[ate] [illegible], [illegible] [illegible], ut [illegible] [illegible] [illegible] debeat [illegible] tolerantia [illegible] [illegible] [illegible], qui ad dignit[ates] admittit [illegible] Scientia [illegible] [illegible] [illegible] [illegible], cap. [illegible] [illegible] [illegible] Scientia, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] cap. [illegible] 29. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] =

n. 5. Potest in dubitandi ad adversus [illegible] decisionis nascitur ex [illegible] quaeritur si deferat, multa [illegible] in iure quae fieri debeant expr. prohibet, facta tenent ob defectum [illegible] cap. ad Apostolicis [illegible] de regularibus [illegible] tantum adest prohibitio [illegible] ut invadant dignitas ecclesiastica nec superior, nec inferior [illegible] igitur [illegible] tenetur tali collatio tanquam [illegible] perfecta debet reputari, [illegible] aliqua dignitas [illegible] possit, [illegible] habere, cum [illegible] ablationis difficillimi [illegible] habere nemini [illegible] igitur [illegible] sit iam [illegible] indutus episcopali dignitate, [illegible] renuntiationis, utique [illegible] si [illegible] ab [illegible] amoveri, et repelli a tali dignitate debet.

n. 6. Quibus difficultatibus non obstantibus dicendum est [illegible] decidendum, [illegible] [illegible] [illegible] ad dignitatem episcopalem [illegible] admittatur [illegible] amoveatur [illegible] [illegible] assertionis decisivam [illegible] ut demonstrare possimus [illegible] valde utile, [illegible] necessarium [illegible] expedit, [illegible] [illegible]

[illegible]

n. 7. [illegible]

[illegible]

[illegible] Mutius n. 6 §. [illegible] [illegible] [illegible] ibique. =

Notab.

Quae aetas ad ordines conferendos apparet iam [illegible] aetas ad beneficia ecclesiastica obtinenda tempore vicissitudine variata est, cap. cum in cunctis de electione, cap. licet canon [illegible], ubi statuitur ad parochiales ecclesias obtinendas attingere vigesimum quintum annum, ad episcopalem vero muneris gerendi tricesimum sextum explevisse, refert Cevallos [illegible] 2 [illegible] quem sequitur Cormarius [illegible] tempore [illegible] 2. cap. 5. Verum hodie hujusmodi [illegible] de novo constituta in Concilio Trid. sess. [illegible] de reformatione cap. 6. aetas quatuordecim annorum exigitur ad obtinenda beneficia simplicia, ita ut ante hanc aetatem nulli fieri queat [illegible] ecclesiastici beneficii collatio; at vero in parochialibus ecclesiis, quibus [illegible] animarum cura desideratur vigesimus quintus aetatis annus [illegible] cap. 12. [illegible] vigesimus secundus annus [illegible] cap. [illegible] in quibus casibus non est necesse ut ultimus annus sit expletus [illegible] ut sit inceptus, ut patet [illegible] Trid. nec sinendae; nam [illegible] dignitatis [illegible] habeant [illegible] administrationem [illegible] bonorum reipublicae [illegible] pro expletis habetur, ita tradunt Cevallos ad notam [illegible] [illegible] n. 175. Selva de beneficiis p. 3. q. 5. n. 3. Navarrus in manuali cap. 25. n. 1 [illegible] [illegible] [illegible] verbo beneficium §. [illegible] ad dignitates [illegible] [illegible] mural. lib. 6. cap. 5. q. 3. [illegible] de just. [illegible] cap. 34 [illegible] 10. [illegible] quintodecimo. Barbosa de pot. epi. 3. p. alleg. 70 n. 76, et alii plures ab eo [illegible].

Cong.

Ad episcopatus culmen ad [illegible] licet apud aliquas nationes [illegible] [illegible] observata sunt, et nunc observentur, ut constat ex [illegible] Albert. tractatu de sacris [illegible] [illegible] calculo non [illegible] ad tot [illegible] annum tricesimum, ut constat ex Concilio Agathensi cap. 16. et 17 [illegible] [illegible] sit [illegible] Lateranensi [illegible] cap. [illegible] de elect. [illegible] [illegible] annum [illegible] [illegible] [illegible] debere [illegible] [illegible] [illegible] Barbosa de pot. epi. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] n. 86. [illegible]. Nec sinerat complemento tricesimi anni requiritur, quippe [illegible] verborum [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] teste Hieronymo [illegible] cap. 1. [illegible] [illegible] [illegible] [illegible] Dominus Noster [illegible] fuit post tricesimum suae aetatis annum [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] post [illegible] anni [illegible] evangelium [illegible] [illegible] [illegible] officio [illegible] [illegible] [illegible] ad [illegible] tricesimum [illegible] officium exercere [illegible] nec non obtinere [illegible] [illegible] [illegible] [illegible] ante tricesimum annum, [illegible] Divus Thomas ad [illegible] Summae q. 39. art. [illegible] =

N. 10

Amplius necessaria scientia [illegible] qualibet dignitate ecclesiastica [illegible] et desiderata [illegible] qualitate, ac [illegible] episcopatus [illegible] [illegible] [illegible] cap. [illegible] [illegible] [illegible] Card. [illegible] [illegible] Bonifacius de Vitalinis [illegible] [illegible] [illegible] n. 4. [illegible] Thomas 1. 2. q. 6. art. 2. [illegible] [illegible] [illegible] [illegible] universaliter [illegible]: singuli [illegible] [illegible] [illegible] [illegible] expectant; quapropter [illegible] scientia sufficeret ac quamlibet dignitatem ecclesiasticam in [illegible] arbitrio [illegible] extraditur a [illegible] Bonifacio [illegible] et a Navarro [illegible] cap. 11. donec [illegible] Concilio Trid. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] legere ac scribere scientibus [illegible] [illegible] [illegible] minores ordines [illegible] [illegible] [illegible] [illegible] reddito, et demonstrato [illegible] de litteris ac morib. [illegible] parrocho [illegible] [illegible]. Amplius [illegible] cap. 13. [illegible] maiores [illegible] sacros ordines [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] necessarium. Denique [illegible] [illegible] [illegible] quicumque [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] cap. [illegible] 18. [illegible] [illegible] [illegible] [illegible] [illegible] cap. de persona 11. q. 1. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Academiis [illegible] [illegible] ad [illegible] [illegible] [illegible] [illegible] [illegible] tradit [illegible] [illegible] [illegible] cap. 21. [illegible] =

+ Tricesimus quintus

Cuiusvis

n. 10

Eguiarr. q. 3 n. 77.

n. 11

[illegible] [illegible] Hallier [illegible] [illegible] sect. 2. [illegible] n. 47.

n. 21. [illegible] ut [illegible] ex [illegible]

ratione [illegible] Trid. [illegible] namque sine papae speciali dispensatione [illegible] quam [illegible] obtineri

[illegible] habiles [illegible] ut ad [illegible] probant [illegible] in cap. [illegible] lib. 6 [illegible]

gratia [illegible] supplenda negligentia [illegible] tamen reputabitur [illegible]

in cap. [illegible] qui filii sint legitimi, tradunt [illegible] cap. 8. § 2. n. 4. [illegible] tomo 5 [illegible]

[illegible] n. 103 [illegible] cap. 14. 44. et alii plures [illegible] Barbosa de

[illegible] n. 33. [illegible] cap. [illegible] et [illegible]

[illegible] ex quibus [illegible] videtur [illegible] Barbosa [illegible] n. 35. [illegible]

[illegible] in Sacro [illegible] Concilio [illegible] Constitutionibus [illegible]

[illegible] cap. [illegible] de [illegible] Valdaerites [illegible]

[illegible] Barbosa ubi [illegible] n. 38. [illegible] tenentur [illegible]

[illegible] cap. quamvis 75. [illegible] cap. quoniam 100. [illegible] Canonicis [illegible] temporibus [illegible]

[illegible] Dominicus cap. quia aliquos 51. [illegible] Metropolitano [illegible]

cap. [illegible] probata [illegible] de [illegible] ad [illegible]

[illegible] cap. [illegible] cap. 1. 64. [illegible] tract. [illegible] Navarr. [illegible] Suarez, et alii plures [illegible]

Barbosa [illegible] n. 39. [illegible] episcoporum [illegible]

[illegible]

n. 22. Igitur [illegible] Scientiae [illegible]

tatis Ecclesiasticae [illegible] immo sufficere ad hoc ut [illegible] promoti [illegible]

ti [illegible] in locis [illegible] quibus [illegible] universo orbi [illegible]

annunciare, expedit ut illi proprio [illegible] valeant [illegible]

in fide [illegible] ad Christianos mores observandos persuadere; [illegible] Constitutiones [illegible]

[illegible] gubernandi [illegible]

Litteratis indigeat, cap. [illegible] de elect. lib. 6. tract. [illegible]

32. [illegible] ubi [illegible] Gonzales [illegible] Litteratiiamque [illegible]

[illegible] juramenti; cap. [illegible] explicatiis [illegible] nobilibus [illegible]

[illegible] litterati, graduati [illegible]

[illegible] Navarr. et Gonzales [illegible]

[illegible]

de magistris, ac [illegible] Principes, ac Patriae [illegible]

auth. habita C. ne filius pro patre [illegible] remunerandi [illegible] Ecclesiasticis beneficiis [illegible]

[illegible] honorandi [illegible]

C. de statuis, et imaginibus, [illegible] beneficia [illegible]

Dignitates Litteratis [illegible]

absque [illegible] remunerata [illegible] cap. [illegible] 75. [illegible]

[illegible]

[illegible] Canonicos [illegible] ignorantia [illegible] peccat [illegible]

Navarro [illegible] cap. [illegible] qui [illegible] docet idem peccata committere [illegible] officii [illegible]

Scientiae [illegible] in cap. [illegible] Horatii [illegible]

Sumite materiam vestris qui scribitis aequam viribus et versate diu quid ferre

recusent quid valeant humeri.

Itaque [illegible] Principes, gubernatores [illegible] suffragii [illegible]

[illegible] Litteratos [illegible] ignorantes [illegible]

Capiant, [illegible] Constitutiones [illegible]

[illegible] si litteratus [illegible] nihil [illegible]

Qui Superiores [illegible] cap. Innocent. [illegible] fuit. [illegible] dispensatione [illegible] aliud medium [illegible] Dignitatis [illegible] solutionis [illegible] dispensat. [illegible] Litteratum [illegible] honestas [illegible] et fama [illegible]

[illegible] docent [illegible] Tabor [illegible] cap. Statuti n.º 1[illegible] de [illegible] tit. [illegible] daretur occasio; ut omnibus gubernandis accidatibus [illegible] circumducat, a quo in cap. penult. [illegible] seminarii [illegible], cum pastor ignorans [illegible] minime [illegible]. Praeter quod omnia, [illegible] quae hinc [illegible] unicuique occurrunt, satis provide [illegible] fuit statutum [illegible] Honorii [illegible] litteratis, semper [illegible] ignorantes, [illegible] ut [illegible] contingit accidat grammatici [illegible] amoveatur [illegible] in tali [illegible], Navarrus, Gonçalez, Salcedo et alii [illegible]

n.º 28

Etiam non obstant [illegible] nam [illegible] necessariam scientiam [illegible] promovendo ad quamlibet dignitatem ecclesiasticam [illegible] canonica [illegible] ut [illegible] amoveri a sua dignitate [illegible] defectu scientiae [illegible] canonice [illegible] iterum [illegible] nam dicendum est [illegible] canonicatus [illegible] ad [illegible] cuiuslibet dignitatis [illegible] in [illegible] nec bonos mores, nec scientiam, nec alias qualitates [illegible] canonica [illegible] requiritur tamen [illegible] conferentis quam capituli recipientis, [illegible] potestas conferendi [illegible] cap. [illegible] de elect. [illegible] cap. [illegible] in 6.º et [illegible] beneficiis et dignitatibus [illegible] qui de elect. [illegible] conferens [illegible] potestatem conferendi et recipiens [illegible] scientiam [illegible] canonicatus nec valet [illegible] cap. [illegible] capitula [illegible] cap. [illegible] de privilegiis [illegible] quia canonicatus [illegible] tutas [illegible] et statim bonos mores et [illegible] scientia exigitur [illegible] dignitas [illegible] canonicatus [illegible] vel alius [illegible] modo [illegible] illiteratus [illegible]

n.º 29

Rursus non obstat secundum [illegible] scientiam necessariam in promovendo ad [illegible] dignitatis [illegible] exquirebamus [illegible] nam dicendum est quando [illegible] scientia [illegible] spiritus, devotionis [illegible] plurima exempla docent. [illegible] Macedonicum Anachoretam ad sacerdotium promovit virum [illegible] sacrarum litterarum [illegible] in [illegible] summa [illegible] vigebat [illegible] Anachoretas [illegible] a doctrina [illegible] sacerdotem [illegible] nequit [illegible] ex [illegible] cap. [illegible] nam omissa solutione, quam tradit [illegible] Andreas [illegible] 23 [illegible] promotionem [illegible]

n.º 25

Denique non obstat [illegible] difficultas quam diximus [illegible] in amovendo ab [illegible] dignitate [illegible] valere [illegible] nam dicendum [illegible] doctrina [illegible] valere [illegible] canonico [illegible] et statuto [illegible] recipientis [illegible] scientia [illegible] tradunt [illegible] Navarrus [illegible] 16. n.º [illegible] Gonçalez [illegible] Nec quicquam [illegible] dicere [illegible] tam facile [illegible] amovendi, nam dicendum [illegible] scientiae [illegible] a sua dignitate amoveri. =

n.º 16. Ex quibus omnibus, ex quibus [illegible] vera succedonari Nostri Pontificiorum decreta, cum primus nobile Innocentius 3. decretum [illegible] in cap. Cum nobis olim [illegible] elect. et electi pot., ubi proponitur quendam electum fuisse in episcopum appellat. interposita, quod talis electio fieret Canonice, quaeritur, et dubitatur an [illegible] fiat valeat, et teneat interveniente [illegible] appellat., et respondit hanc electionem valere, quoniam [illegible] post appellat. celebrata [illegible], quoniam in illa [illegible] a [illegible] necess. [illegible] licet [illegible] adequata videtur [illegible] [illegible] quoque litteratura [illegible] eminentis [illegible] electo [illegible] [illegible], quibus [illegible] ab elect. [illegible] ex [illegible] exponitur [illegible] Stat [illegible] scientia [illegible] sufficiens adhoc est ab elect. [illegible] aduersus [illegible] [illegible] Vere ab hac difficultate [illegible] liberabimur [illegible] [illegible] excludi, referri ad [illegible] precedenti [illegible] hanc electionem [illegible] necess. [illegible] eminentiae [illegible] erat [illegible] scientia, validam, et firmam esse, et [illegible] ab elect. [illegible] excludi [illegible] scientiae [illegible] absolute, [illegible] eminentia [illegible] omnino scientia deficeret, electio omnino annullaretur [illegible] 27. [illegible] mediocris scientiae Pontifici [illegible] fuerit quam electus de [illegible] [illegible] elect. et electi pot. cap. dudum 22 [illegible] de elect., [illegible] de elect. [illegible] [illegible] scientiae [illegible] scientiam ad [illegible] [illegible] canonica electio [illegible] canonica valet, non obstante appellat. [illegible] interposita, adhoc [illegible] electio [illegible] canonica [illegible] appellatio [illegible] nulla [illegible] observata; difficultas [illegible] nobis [illegible] [illegible] Panormit. [illegible] nobis [illegible]

n.º 17. [illegible] Alexandri 3. decretum [illegible] ex [illegible] aperte [illegible] illis, qui [illegible] fuit [illegible] tali dignitati renuntiare [illegible] admitti [illegible] aut alleget [illegible] aut [illegible] insufficientiam [illegible] adtantam dignitatem [illegible] cognoscit, immo [illegible] ignorans [illegible] permanere [illegible] [illegible] obligatur ignorans in [illegible] permanere debere, [illegible] Statuitur [illegible] hanc difficultatem [illegible] a tali dignitate amouendus est. Hanc difficultatem tangit Panormit. in d. cap. 1. [illegible] ut quando [illegible] scientiae [illegible] adrenuntiandum [illegible] talis [illegible] magnus [illegible] Secundo quod talis [illegible] ut communis [illegible], quasi [illegible] scientiae [illegible] Charitatis, [illegible] licet [illegible] illis [illegible] adaptatur; igitur [illegible] in d. cap. 1. licet [illegible] [illegible] licet [illegible] talis [illegible] adrenuntiat, immo ad [illegible] ut [illegible] excusat [illegible] [illegible] velut [illegible] maximo belli discrimine [illegible] [illegible] patiatur [illegible] [illegible] fidei suppleat [illegible] scientiae [illegible] fidei, et religionis [illegible] [illegible] specialis [illegible] in d. cap. [illegible] episcopatus [illegible] [illegible] [illegible] ita docent hanc [illegible] Butrius, [illegible] et alii [illegible] [illegible] in d. cap. [illegible]

n.º 18. Hac [illegible] Nostri [illegible] Paulus [illegible] d. cap. 6., [illegible] parochialis [illegible] licet [illegible] parochi [illegible]

[illegible] sui singularis vitae exemplo, fidei famaeque [illegible] authoritatis et utilitatis. Similiter intelligendus textus in cap. [illegible] de [illegible] §. pro defectu de rementibus, ubi [illegible] claritatis [illegible] alia similia qualiter qualiter [illegible] efficitur, ut supra diximus. Huc expectare videtur textus in cap. unico de Clerico [illegible] Sexto, quatenus [illegible] asseritur nec deni, nec [illegible] nec alias legitime impeditus coadiutor nominandus est, de [illegible] [illegible], tradit [illegible] doctrina [illegible] pluribus [illegible] Sentiale ad regulam [illegible] Cancellariae glossa 5. § 9. n.° 19 [illegible] =

Deinde [illegible] Toletani Concilii Octavi authoritas Canone 8 [illegible]

interpretat. Conc. Tolet.

Ubi decrevimus ut nullus cuiuscumque dignitatis Ecclesiasticae deinceps [illegible] gradum qui [illegible] Psalterium vel canticorum usualium, et hymnorum, sive baptizandi [illegible] noverit [illegible], quorum in honore [illegible] sunt, et hoc [illegible] aut [illegible] aut [illegible] exercitia cogantur [illegible]. Ex quibus [illegible] duas [illegible] Ecclesiasticas [illegible] qui [illegible] Psalterium, vel canticorum et hymnorum intelligentiam habuerint [illegible] qui honore dignitatis funguntur [illegible] alia [illegible] ignorantes, quae alias scire debebant [illegible] permanere [illegible] quae ignorant, aut [illegible] exercitiis [illegible] quidquid [illegible] difficile videtur, et omnino [illegible] decisioni [illegible], [illegible] ex hac [illegible] colligitur ignorantem [illegible] sua debere permanere dignitate, [illegible] ignorans a sua dignitate [illegible] laudent authores. Verum [illegible] quam [illegible] illiteratos [illegible] ad Ecclesiasticas dignitates, [illegible] et [illegible] probabilius. Nec contra [illegible] ut [illegible] Toletani [illegible] ad Sacra [illegible] ministeria tractanda, quae morum [illegible] scientia, et litterarum splendor reddunt illustrem, ex quibus reprehenditur [illegible] et licet aperte [illegible] ignorantes, debet [illegible] intelligi [illegible] illiteratus [illegible] ignorat, aliquando namque [illegible] omnino illiterati [illegible] dignitas [illegible] itaque tradit [illegible] in cap. [illegible] Ordinationis Sexto. Salcedo in pract. [illegible] cap. [illegible] 3. = [illegible]

[illegible]

+

Relectio ad tex. in cap. ad extirpandas 11.
de filiis presbiterorum lib. 1. tit. 17.

Scheda 13.

Relectio ad textum in cap. ad extirpandas 11 de filiis presbiterorum recitata hoc anno Domini 1648. Vere.

n.º 1. Difficilem, Celebrem, atque perillustrem Alexandri 3. Decisionem explanandam agredimur, que suum vindicat locum in lib.º 1.º Decretalium tit.º 17. incipit tex. ad extirpandas; in qua decisionem explicandam, cum valde generalis sit, la omnia proponere opinamur, que ad presbiterorum filios conducunt, et expectant, quo ut meliori modo percipi, explanari que valeat, a conclusione initium capere expedit, que omnino ab omnibus interpretibus ex nostri tex. visceribus depromi solet. Filius legitimus, et illegitimus beneficium obtinere non potest, in quo pater ~~[illegible]~~ immediate administrauit. que cons.º probatur ex tex.º in cap. ad presentiam 2. cap. presentium 3. cap. conquerente 4, cap. ex transmissa 7. cap. constitutus 8. cap. quoniam 10. cap. Michael 13. cap. cum decorem 15. cap. ad abolendam 16. cap. dilectus 17. hoc nro tit.º de filiis presbiterorum (que omnia ura explicata remanebunt, si relectionis nostre metas custodimus, et obseruamus, et quidquid nos dixerimus ad quemlibet ex his acomodari posse existimamus) probatur etiam p.ª conc. ex tex.º in cap. per venerabilem 13. qui filii sint legitimi, cap. innotuit 20. de elect. cap. nisi cum pridem 10. de renunciat. cap. ex parte 7. de testibus, et attestationibus, cap. cum olim 6. de clericis coniugatis, cap. unico h. tit. de filiis presbiterorum in 6.º cap. Apostolica 7. cum pluribus aliis. [illegible] Exornant hanc nostram cons. fere antiquiores in nro tex. et in dictis iuribus, quales sunt Panormit. Hostiensis, Ioannes Andreas et alii. Nicolas Garcia de Benefficiis 2. p.e cap. 3. [illegible] de [illegible] 3. n.º 18. [illegible] in praxi Canonica cap. 68. Azor 1. to. instit. moral. lib. 12 cap. 3. q. 8. [illegible] regul. de benefficiis cap. 35. tit. 1. de rescriptis cap. 20. Sanchez to. 2. consiliorum lib. 2. cap. 1. dubio 24. n.º 2. q. et 10. et dubio 29. [illegible] 18. et 19. Lotherius de re benef. lib. 2. q. 40. n.º 274. cum sequentibus, Duarenus lib. 4. de Sacris eccle. ministeriis cap. 4. Barbosa in remissionibus ad concilium Trid. ses. 25. de reformat. cap. 15. idem Barbosa de potestate episcopi 3. p. aligat. [illegible] et alii plures ab eis relati in dictis locis, et in Collectaneis ad nros tex. =

n.º 2. Sed licet hec nostra conclusio tot iuribus, tot que auctoritatibus fulcita et corroborata verissima sit, tamen non desunt aliqua obiectiones, que eandem ruere conantur, et quatenus in nostra conclusione asseritur filios legitimos non posse succedere immediate in benefficiis parentis. 1.º obstat tex. in cap. si pater 2. de arbitris, ex cuius tex.º [illegible], et ex narratione speciei aperte colligitur nepotem successisse in aui sui promortui dignitate, ergo quemadmodum nepos in benefficiis aui succedere pot., ita et poterit filius in benefficiis patris, cum eadem ratio [illegible] permittendi [illegible] quidem [illegible] in utroque versetur, ciuili, et naturali rat. suadente et in hereditate, et in patria potestate, et in aliis [illegible]

n.º 3. Secundo aduersus hanc partem obstat tex. [illegible] filiis in cap. ex ore 12. de off. et potest. iudicis delegati, ubi litt. fuerunt impetrate ad Archidiaconatum [illegible], et postea fuerunt alie impetrate ad hoc ut [illegible] in benefficiis et dignitate aui sui succederet, quesitum fuit, an priores, an posteriores litt. valeant, et respondit Alex.er 3. priores litt. valere, rediti que [illegible], quoniam in posterioribus de illegitimitate facta non fuit, [illegible] mentio [illegible] posteriores, quibus cauebatur ut in aui [illegible] Archidiaconatus nepos succederet valerent, et [illegible] succ.º in nepot. et [illegible] filio erga parentis benefficia [illegible]

n.º 4. [illegible] nostre [illegible] quod docemus [illegible] a multis [illegible] benefficiorum [illegible] [illegible] extraniatum [illegible] [illegible] filiis [illegible] nocere [illegible] in cap. [illegible] 3. [illegible] 146. [illegible] crimen 26. [illegible] delicti innocentibus [illegible] de [illegible] Patrum [illegible] auctoritate [illegible]. Verumtamen [illegible] in [illegible] Ciuilis iuris [illegible] Petrus de [illegible] Primarius, [illegible] crimen 20. [illegible] filii nocere debent, videtur [illegible] incapaces [illegible]. =

Vide n. 5.

n. 6

et ultimo advertimus [illegible] obstat [illegible] cap. [illegible]

[illegible] ubi dicebatur, quod filius sacerdotis [illegible] fuerit institutus in [illegible], in qua pater proxime [illegible] fuerat institutus [illegible] removeri [illegible] filium incapax [illegible] sive [illegible] alterius extranei. [illegible] difficulter [illegible] sacerdotis [illegible], et patrem [illegible] et immediate ministrarit, non posset dispensari, [illegible] talis dispensatio [illegible] summum Pontificem [illegible] in cap. penult. et ult. de filiis presbyterorum [illegible] defendi [illegible]

n. 5

Quibus difficultatibus non obstantibus [illegible] quidquam [illegible] dicendum [illegible] filii legitimi, et illegitimi [illegible] parentibus. Cuius conclusionis decidendi rationem ut assignemus [illegible] exponere [illegible] rationem [illegible] vera [illegible] quaerenda. Quare [illegible] duplex est reddenda ratio, et quatenus diximus [illegible] admitti [illegible] casu proveniens, quia filii illegitimi [illegible] et infames sunt, cap. [illegible] et [illegible] beneficia ecclesiastica et dignitates [illegible], et infamibus personis [illegible] non debent [illegible] excellentiam [illegible] dignitatis Clericalis Status, qui ad talem [illegible], arg. [illegible] cap. infamibus de R. [illegible] excessibus praelatorum: [illegible] apud [illegible] gentes tanta reverentia erga res spirituales, tanquam [illegible] semper [illegible] difficile [illegible] omnia congerere. Romani itaque adeo [illegible] ut [illegible] supremi imperii culmen sacris, et sacerdotibus subiicit [illegible] sacerdotes enim [illegible] idcirco [illegible] Romanos [illegible] in loco sedebant ut refert [illegible] adversus [illegible] sedent [illegible] publicis Sacerdotum omnium, Magistratus [illegible] Collegia, Pontifices maximi [illegible] sedent [illegible] et Flamine [illegible] = Quare Dionysius Halicarnasseus [illegible] antiquitatum Romanorum refert Sacerdotes eligendos ex gente excellentes, non [illegible] infames, [illegible] corpore [illegible], [illegible] debere, ut bene quid agerent intelligant. Similiter etiam [illegible] Barbari [illegible] Barbarorum maximi, qui nec [illegible] Domini nostri agnoverunt [illegible] Sacerdotibus reverentiam praestabant, ut regi advenienti [illegible] Sacerdoti occurrerent, [illegible] inclinato capite manum illius osculabant, aliaque similia in [illegible] exercebant. [illegible] turbarentur, et in irreverentiam Status Clericalis vergerent, si hodie fideles et christiani gentes, qui veri et omnipotentis Dei cognitionem habent, filios Sacerdotis, qui infamis est, ad munera Ecclesiastica admitterent, alias [illegible] quodammodo irreverentialis [illegible] Sacerdotalis dignitas, quae [illegible] semper habenda est quam decidendi [illegible] tradunt Anastasius Germonius [illegible] de sacrorum immunitatibus cap. [illegible] et [illegible] Rebuffus in praxi [illegible] renovatione natalium n. 8. = Accedit huic rationi illa consideratio, nam [illegible] filios presbyteri ad Ecclesiastica [illegible] admitteret, [illegible] ut parens [illegible] filios [illegible] excelso statu [illegible] ex quibus [illegible] major [illegible] cum crimen [illegible] item et [illegible] quibus [illegible] de legitimis [illegible] tutoribus [illegible] de publicanis et Vectigalibus [illegible]

n. 7.

Adversus quam [illegible] nam decidendi rationem videntur obstare [illegible] l. [illegible] ff. de decurionibus, et [illegible] filiis, ex quibus verbis aperte [illegible] videntur, qui [illegible] infames sunt ad decurionatum [illegible] admitti [illegible] ad [illegible] omnes, qui [illegible] infames sunt [illegible] admittuntur dignitates [illegible] dicendum presbyterorum filios ab Ecclesiasticarum dignitatum [illegible] non amoveri [illegible] infamibus habeantur [illegible] infames dignitates [illegible] obtinere. = [illegible] interpretationis [illegible] dupliciter responderi potest. [illegible] Dicendo [illegible] legibus [illegible] affirmari [illegible] illas personas ad honores et dignitates admitti debere, [illegible] asserere [illegible] ad Decurionatum [illegible] [illegible] honestiori [illegible] quod admitti poterit ob maximam [illegible] necessitatem, ut bene animadvertit [illegible] observat, cap. 29. Duarenus [illegible] n. 20. = [illegible] filii illegitimi ad temporales dignitates aliquando admittuntur, non tamen ad Ecclesiasticas admitti debent, [illegible] speciali [illegible] intervenit [illegible] magna [illegible] inter utramque dignitatem [illegible] cap. [illegible] Petrus Gregorius [illegible] 15. Syntagmatis cap. 1. [illegible] Barbosa [illegible] allegat [illegible] n. 1. [illegible] =

n. 8

[illegible] assignanda vera decidendi ratione, quare [illegible] filius [illegible] illegitimus Sacerdotis non possit obtinere beneficium in quo pater eius praecedens immediate ministravit, [illegible] nonnulli [illegible] asserunt ideo illegitimum Sacerdotis filium [illegible] obtinere non posse, quia id ex lege divina [illegible] Deuteronomii cap. 23. [illegible] hoc est [illegible] natus [illegible] usque ad decimam generationem ut [illegible] generationibus [illegible] filii sint legitimi, cap. [illegible] quod [illegible] paterna incontinentia [illegible] [illegible] pater fuit [illegible] 56 [illegible] nam sicut incontinentia [illegible]

Vi[illegible]

Viri; cap. in dicuntur 32. q. 1. Sicut multi fortius inhonesta vitiis maculant filii, Eccl. 5. Idcirco [illegible] filii
Vitia parentum sequi, cap. diligens 10. 56 dist. Sicque ex impio patre plerumque producitur impius filius; et
Sicut arbor in fructu cognoscitur, et fructus per arbores demonstrantur, sic parentes cognoscuntur in filiis, et
filii per parentes; memoria que impudicitiae patris semper in filio durat, cum memoria illius [illegible] deleri non dicatur;
cuius corporis effigies in filium transmittatur. Nec dissimile est nostri primi parentis exemplum, qui cum [illegible]
e peccato humanam miseriam, et funestissimam malorum omnium seminarium in posteros universos diffundisset
ex eo mortis initium natum est, eadem etiam omnium [illegible] depravatio, et daemonis vanitas aperta est, [illegible] immortalitatem [illegible]
deformitatem, ac omnes dolores, nefariae voluptates [illegible] extiterunt, quae animi imbecillitate facile [illegible]. Ex omnibus
omnibus constat, eos quibus [illegible] atque impios parentes [illegible], a [illegible] ad ipsa scelera [illegible]
[illegible] ipse pater et filius una eademque persona esse intelligantur, et sic [illegible] filiorum, a parentibus [illegible] censetur
[illegible] in l. fin. C. de impub. et aliis substit. ex quibus omnibus exemplis deducunt nonnulli [illegible]
nec legitimus, nec illegitimus sacerdotis filius succedere posse immediate in beneficio quod eius pater [illegible] obtinuit. =

n.º 9. Quare licet [illegible] decidendi ratio verasit, et admittenda sit quoad filium
illegitimum sacerdotis, tamen quoad legitimum admitti non potest; quia [illegible] talis ratio [illegible]
[illegible] hac ratione et aliis omissis verissime dicendum est tam legitimum quam illegitimum sacerdotis filium ac patris etiam
[illegible] ordine, et immediate administravit, [illegible] admitti, quia ad [illegible] beneficii iure sanguinis [illegible]
veniri non potest [illegible] cap. [illegible] de filiis presbyt. cap. 1. de praebendis et dignitatibus cap. [illegible]
[illegible] coadiuvatur ex eo; quia beneficia ecclesiastica ob vitae meritum, et litterarum peritiam deferre [illegible]
est, ut annotavit [illegible] Hieronimus in cap. Moyses 8. q. 1. quod [illegible] in beneficiis [illegible]
mitteretur, cum indignus digno, [illegible] dignus dignior [illegible] cap. [illegible] ut ecclesiastica beneficia [illegible]
[illegible] conferantur, [illegible] cap. [illegible] de iure patronatus [illegible] Thomas 2.a 2.ae q. [illegible]
Cott. in regula [illegible] de R. [illegible] 86. et aliis [illegible] a Barbosa in collectaneis ad Decretales
in cap. [illegible] 19. [illegible] 4. [illegible] collect. ad Decretales collect. 96. = Denique [illegible] ratio [illegible]
[illegible] nec est dominus beneficii, sed administrator [illegible] de donat. [illegible]
morte [illegible] arg. [illegible] in cap. [illegible] de [illegible], verum [illegible] pater sacerdos
beneficium in [illegible] ab intestato iure sanguinis non potest in filium transmittere, cap. 4. [illegible]
[illegible] ad audientiam [illegible] de institutionibus, [illegible] in regula beneficii de R. [illegible]
[illegible] tradunt [illegible] antiquiores, ut citat [illegible] Panormit. et Host. [illegible] =

n.º 10. Verum adversus hanc verissimam decidendi [illegible]
[illegible] difficultates. 1.a oritur ex quadam Zachariae Pontificis epistola missa ad Bonifacium Archiepiscopum Moguntinum relata in cap.
[illegible] 17 [illegible] q. 1. [illegible] Archiepiscopus [illegible] nominare successorem in Archiepiscopatu [illegible]
[illegible] successoris, et nominatum [illegible] Pontifex [illegible] approbavit [illegible] successoris [illegible]
Verum huic difficultati respondendum est dicendo [illegible] coadiutoria facta [illegible]
[illegible] Archiepiscopi Moguntini, in qua [illegible] Summi Pontificis intervenit auctoritas, qui [illegible] coadiutoria [illegible]
[illegible] successore [illegible] Trid. [illegible] de reformat. cap. 6. et 7. ne [illegible]
[illegible] successio in rebus spiritualibus [illegible] cap. [illegible] cap. [illegible] de [illegible] tamen [illegible]
[illegible] praesul [illegible] generalis, et absoluta potestas [illegible] cap. [illegible] cum futuro successore [illegible] coadiutores
[illegible] Bonifacius [illegible] Archiepiscopus [illegible] successorem non designavit, [illegible]
[illegible] Pontificis [illegible] animadvertit [illegible] in Summa Conciliorum [illegible] Romanus [illegible]
[illegible] mihi 450. =

n.º 11. Secunda difficultas [illegible] ex decreto [illegible] in cap. [illegible]
[illegible] Petrus cum iam legitimo senectutis morbo [illegible] beatus Clemens [illegible] successorem [illegible]
[illegible] ad cathedram [illegible] doctrina [illegible] ut [illegible] Pontifex Maximus [illegible]
[illegible] cap. [illegible] Petrus, [illegible] datur successio in quibuslibet ecclesiasticis dignitatibus [illegible]
Verum adversus superiorem decidendi [illegible] difficultates [illegible] inter [illegible] varias [illegible]
[illegible] difficultates effugerent [illegible] Petri [illegible] negarunt [illegible]
Baronius in Martirologio die 26. Aprilis et [illegible] Septembris [illegible]
[illegible] = [illegible] in [illegible] Chronologia in Clementem [illegible] ad [illegible] Petrus Pontifex [illegible]
[illegible], tamen [illegible] successorem beatum Clementem [illegible] Clerici et [illegible] populo [illegible], ut [illegible]
[illegible] Clementis [illegible] benemeritis [illegible], et sic Clemens [illegible] ex successione Pon-
tificatus dignitatem [illegible] a clero [illegible] = [illegible]
[illegible] contestari [illegible] beatum Petrum [illegible]

[illegible] Clementis, [illegible] atque [illegible] ferunt [illegible] Pontificis [illegible] cap. 11. Belarminus [illegible] de Romano Pont. [illegible] quibus [illegible] omnis [illegible] ut [illegible] difficult. [illegible] dicendum est in hac [illegible] accidendi [illegible] illud Beati Petri [illegible] nam [illegible] mandato [illegible] Petrum [illegible] quam [illegible] ad exemplum [illegible] ut colligitur ex [illegible] Clementis [illegible] in auribus totius [illegible] Sed [illegible] ille Clemens post mortem Divi Petri Pontificatus dignitatem renuntiavit, non ex eo quod [illegible] sed humilitate profundissima [illegible] ne [illegible] exemplum, ut postea aliquis [illegible] successorem eligeret, quae venunt [illegible] in cap. [illegible] spiritualibus [illegible] post Beati Petri mortem in Sede Pontificali [illegible] et postea [illegible] Clemens [illegible] quasi ex aliqua divina [illegible] idem Clemens haberet a Petro designatus, fuit [illegible] Pontifex, fuit [illegible] ut notant Baronius anno Christi 69 n° 38. [illegible] Belarminus de Rom. Pont. [illegible] cap. 25. =

n° 12

Ex qua [illegible] ad [illegible] ultima [illegible]

[illegible] inter ceteras [illegible] ex quo [illegible] filius Clerici [illegible] in qua pater eius [illegible] ministravit, obstat filius Sacerdotis, [illegible] Sacerdotio genitus, ut [illegible] Sacerdotis filius, [illegible] Sacerdotio genitus, qui proximo in tali Ecclesia ministravit, ex quibus [illegible] sepulturam et poterat [illegible] illa est, ut [illegible] omnino [illegible] illud [illegible] de [illegible] de Conditionibus [illegible] filius Sacerdotis legitime natus sit, poterit obtinere, et succedere in illa [illegible] in quo pater [illegible] ministravit, si quidem [illegible] cap. inter ceteras [illegible] filio Sacerdotis [illegible] Sacerdotio [illegible] [illegible] difficult. [illegible] inter ceteras [illegible] addendum [illegible] a Beneficio in quo pater immediate ministravit, si filius Sacerdotis sit, et maxime [illegible] Sacerdotio fuerit genitus, [illegible] obstare [illegible] = Alii [illegible] affirmant [illegible] et [illegible] alternativa [illegible] dicerer, [illegible] filius legitimus et Sacerdotis, [illegible] Sacerdotio genitus, ut [illegible] possit succedere, [illegible] quia plerumque [illegible] et convertit solet [illegible] alternativa [illegible] quidem [illegible] alternativa [illegible] sufficit [illegible] illud [illegible] securus [illegible] [illegible] Abbatis [illegible] [illegible] filius Sacerdotis ad legitimos [illegible] Sacerdotio genitus ad illegitimos [illegible] referenda est, quos [illegible] succedere posse in beneficiis patris sui, in quo [illegible] ministravit, [illegible] filius Sacerdotis, qui ante [illegible] genitus, tanquam [illegible] cum pater postea [illegible] et eleganter [illegible] Praeterea [illegible] de [illegible] filius illius, qui postea [illegible] filius [illegible] Borellus [illegible] =

n° 13

Secundo [illegible] in cap. ad abolendam [illegible] de filiis presbyterorum, [illegible] Patres in [illegible] generali [illegible] celebrato [illegible] decrevere ut Canonicatus [illegible] saecularibus, in quibus patres [illegible] ordinari [illegible] filii [illegible] fuerint, [illegible] non valet, [illegible] a beneficiis [illegible] Filios repiciendos [illegible] legitimi [illegible] adversus decisionem [illegible] in cap. [illegible] hoc [illegible] = [illegible] difficultates [illegible] cap. ad abolendam [illegible] decisionem [illegible] cap. [illegible] admittere [illegible] ecclesiis [illegible] patres sunt [illegible] cap. ad abolendam, [illegible] [illegible] et posteriores [illegible] de legibus [illegible] [illegible] cap. ad abolendam [illegible] maxime [illegible] [illegible] spurii [illegible] in Canonicatibus Ecclesiis, in quibus patres sunt [illegible] [illegible] ad abolendam [illegible] spurii excludantur, [illegible] legitime [illegible] recepta [illegible] quia [illegible] significat [illegible] [illegible] non aliter [illegible] de leg. [illegible] cap. ad audientiam [illegible] cum [illegible] = [illegible] dicendum illud verbum maxime magis proprie [illegible] esse accipiendum, [illegible] filius [illegible] naturalis ante [illegible] ordines ex muliere soluta [illegible] qui et illegitimus [illegible] admittatur [illegible] in qua pater est [illegible] nec et filius spurius in Sacerdotio genitus, ad [illegible] [illegible] filii [illegible] illegitimum [illegible] spurius [illegible] filii [illegible] [illegible] Panormitanus [illegible] cap. ad abolendam [illegible] de filiis presbyterorum [illegible]

n° 14

[illegible] in cap. [illegible] de Clericis coniugatis [illegible] asserit Sacerdotis filius [illegible] [illegible] difficultas [illegible] [illegible]

qui

Cum licite in minoribus constituti matrimonium inirent, ante eas [illegible] post sacros ordines [illegible] [illegible] matrimonium [illegible] illis permittebatur legitimos esse filios eorum ad quaslibet admitti posse dignitates [illegible] quam decretum [illegible] obstat [illegible] 17. [illegible] ubi [illegible] orientalis [illegible] habere [illegible] [illegible] [illegible] legitimi [illegible] a quacumque dignitate. Cui difficultati [illegible] dicendo [illegible] [illegible] intelligendum [illegible] filiis qui antea erant [illegible] initiati ordinibus, qui [illegible] cultui divino [illegible] dedicati essent [illegible] matrimonium inire [illegible], [illegible] ita que expectant ad [illegible] matrimonium [illegible] [illegible] [illegible] moral. [illegible] cap. [illegible] q. 1 Cobb. de [illegible] cap. [illegible] Basilius [illegible] matrimonio cap. [illegible] [illegible]

n.o 25

Denique restat [illegible] [illegible] [illegible] cap. [illegible] [illegible] [illegible] fuerit [illegible] beneficium obtinere clericorum filii. De qua difficultate videndus [illegible] [illegible] cap. [illegible] [illegible] q. [illegible] cap. [illegible] 17. [illegible] de filiis presbyterorum [illegible] Basilius [illegible] [illegible] in quinquagesima [illegible] [illegible] cap. [illegible] 15. de accusationibus de quo videndus [illegible] [illegible] cap. 29. [illegible] cap. [illegible] 15 [illegible] de quo consulendus Cobb. de [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] nos videtur [illegible] [illegible] quae [illegible] [illegible] sunt.

n.o 26.

Cuius tamen [illegible] [illegible] rationes dubitandi [illegible] nostri [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] admitti ad beneficium [illegible] [illegible] [illegible] [illegible] filius debere admitti [illegible] carens beneficio [illegible] [illegible] [illegible] [illegible] [illegible] filii [illegible] debeat extendi de [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] in dignitatibus, itaque [illegible] beneficium [illegible] [illegible] [illegible] [illegible] cap. [illegible] 2. de [illegible] cap. [illegible] 22. de [illegible] delegati [illegible] [illegible] sententia [illegible] [illegible] [illegible] [illegible] [illegible] de [illegible] [illegible] [illegible] appellat. filiorum [illegible] [illegible] [illegible] [illegible] [illegible] de filiis extendi non debet [illegible] [illegible] [illegible] [illegible] canonico [illegible] [illegible] [illegible] posse obtinere [illegible] [illegible] dignitates, ita eleganter docet [illegible] [illegible] Thomas Sanchez [illegible] [illegible] cap. 1 dubio 10.

n. 27

Pro [illegible] 2 dubitandi ratio deducta ex cap. [illegible] 22. de officio delegati, [illegible] [illegible] ad [illegible] difficultatem intelligendam, dicendum [illegible] [illegible] cap. [illegible] ad dignitatem [illegible] admitti [illegible] successionis, [illegible] [illegible] [illegible] decreto [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] difficultas, nam [illegible] litteris [illegible] fuerunt generales, et 21 [illegible] [illegible] [illegible] per speciem derogetur [illegible] secundas litteras valere [illegible] [illegible] successionis, nam dicendum [illegible] cap. [illegible] [illegible] [illegible] fuisse speciales [illegible] [illegible] [illegible] [illegible] [illegible] crimen [illegible] [illegible] [illegible] dicere tales litteras valere propterea [illegible] [illegible] impetrantes [illegible] pacti simoniaci [illegible] [illegible] [illegible] litteras [illegible] [illegible] [illegible] simoniae [illegible] [illegible] impetratas fuisse, ut [illegible] [illegible] [illegible] simoniacus [illegible] simonia [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] impetrat. [illegible] [illegible] admitteretur [illegible] [illegible] casu quo [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] admittatur [illegible] [illegible] [illegible] [illegible] [illegible] cap. 13. de accusationibus [illegible] [illegible] cap. [illegible] de adulteriis. Videndus [illegible] Panormitanus [illegible] [illegible] de accusat. n.o 1. 122.

n. 28

Unde non obstat [illegible] difficultas [illegible] [illegible] [illegible] probabamus [illegible] [illegible] [illegible] parentes, propterea [illegible] filii non debent puniri [illegible] delicta parentum [illegible] dicendum est [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] puniri posse, tamen [illegible] [illegible] [illegible] filius non portabit iniquitatem patris, ad [illegible] [illegible] [illegible] crimine [illegible] [illegible] [illegible] imitantur filii [illegible] [illegible] [illegible] [illegible] divina ac humana [illegible] parens [illegible] [illegible] [illegible] [illegible] generatio [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] dignitates, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] adveniret [illegible] quod parens eius [illegible] ac immediate illud [illegible] ministrauit, quo [illegible] intellige [illegible] [illegible] hic filius [illegible] decidere adducimus [illegible] n.° 8. 09 =

n.° 29 Denique non obstat [illegible] difficultas desumpta ex [illegible] Veniens [illegible]

de filijs presbyterorum [illegible] ubi [illegible] Panormitanus [illegible] cap. Veniens n.° 6. [illegible] filij sacerdotum [illegible] illud obtinere [illegible] immediate pater obtinuisset, et administrauerit [illegible] beneficium illud [illegible] [illegible] [illegible] hoc [illegible] [illegible] [illegible] [illegible] tempore [illegible] non ignorabat [illegible] filius sacerdotis immediate patri [illegible] [illegible] = Verumque [illegible] aperte [illegible] ex [illegible] [illegible] [illegible] [illegible] Sancti Laurentij [illegible] ordinariae [illegible] [illegible] [illegible] [illegible] litteram [illegible], ex quibus verbis aperte constat beneficium non simplex, sed curatum fuisse, [illegible] [illegible] ex [illegible] vel ex [illegible] in [illegible] [illegible] non poterat [illegible] [illegible] [illegible] [illegible] cap. [illegible] de filijs presbyterorum [illegible] = [illegible] [illegible] dicendum [illegible] Romanum Pontificem [illegible] [illegible] [illegible] obtinere [illegible] in qua pater eius [illegible] administrauit, quod [illegible] [illegible] Sedis Apostolicae Legato [illegible] expresse [illegible] indulgentia [illegible] [illegible] filijs presbyterorum [illegible] [illegible] [illegible] Veniens quia [illegible] [illegible] beneficium [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] ut [illegible] [illegible] [illegible] [illegible] [illegible] de filijs presbyterorum [illegible] =

n.° 30 [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] non turbato mortalitatis ordine pater [illegible] in [illegible] beneficio, in quo postea immediate filius [illegible] [illegible] dicendum [illegible] posse obtinere beneficium, in quo immediate filius administrauit, [illegible], quia [illegible] [illegible] nominatim et specialiter prohibetur [illegible] in filiorum personis, ut constat ex dictis [illegible] non tamen [illegible] atque ideo tanquam odiosa ad [illegible] extendi non debet [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] de filijs presbyterorum [illegible] Garcia de Beneficio [illegible] [illegible] n.° 29. Augustinus [illegible] [illegible] [illegible] considerationes [illegible] [illegible] [illegible] [illegible] beneficium [illegible] [illegible] [illegible] [illegible] in [illegible] [illegible] filius, qui [illegible] administrauit [illegible] [illegible] filius [illegible] [illegible] ita ex turbato ordine mortalitatis parentes succedunt filijs, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] debet [illegible] [illegible] [illegible] Aquilam [illegible] [illegible] [illegible] beneficij [illegible] filius [illegible] [illegible] difficultate [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] tamen succedit parens in [illegible] filiorum [illegible] tam frequens est [illegible] nisi turbato mortalitatis ordine, [illegible] [illegible] [illegible] filiorum [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] parentes succedunt [illegible] [illegible] [illegible] obtinere [illegible] beneficium [illegible] [illegible] filius [illegible] cum pater [illegible] filijs, ut filius [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] filij [illegible] [illegible] [illegible] sacerdotis [illegible] nullus [illegible] [illegible] [illegible] = [illegible] difficultati [illegible] [illegible] =

+

111

Relectio ad text. in cap. 4. de servis non ordinandis. Lib. 1. tit. 18.

Scheda 14.

= Relatio ad textum in cap. 1. et fere totum titulum de Servis non ordinandis. =

n.º 1

Conclusio generalis, quae ex textu in cap. 1. cap. 2. et 4. deducitur, sequens est: Servus in potestate Domini constitutus ordinari non potest, nisi plenam libertatem consequutus fuerit. quae 1º probatur ex textu in c. 1. cap. 2. et 4. de servis non ordinandis, cap. Venerabilem [illegible] [illegible] sint legitimi, probat etiam textus in cap. nullus 1. cap. nullus 2. cap. quicunque 1. c. de servorum 6. cap. si quis 7. cap. ex antiquis 9. cap. generalis 12. cum similibus aliis 54 dist. probat et hoc ipso in Concilio Toletano 4. cap. 73. Concilio Aurelianensi [illegible] cap. 8. Concilio Lateranensi sub Alexandro 3º cap. 19. canon 81. Apostolorum; auth. Si servus C. de episcopis et clericis, de [illegible] [illegible] tur in L. [illegible] tit. 6. p. 1. L. 6. [illegible] tit. 5. [illegible] p. 1. L. 6. tit. 22. p. 4. illustrant hanc [illegible] praeter antiquiores Abbas, Panormitanus, [illegible] Divus Thomas Andream, ceteros, dd. fere [illegible] et [illegible] super eis scribentes, Divi Thomae doctrinam amplectentes [illegible] a. 2. ar. 2. q. 1. [illegible] in eadem dist. 25. q. 1. art. 3. Albertus [illegible] [illegible] Felicianus de servis [illegible] [illegible] cap. 6. [illegible] pag. 432. Manuel [illegible] tit. 1. cap. 35. Salcedo in praxi Can. cap. 40. [illegible] in Epitome [illegible] Pontificis [illegible] tit. 6. tit. 7. cap. 6. [illegible] Petrus [illegible] tit. 16. [illegible] cap. 60. n.º 14. et tit. 2. [illegible] cap. 23. Beracina de servis [illegible] 7. [illegible] 4. [illegible] 3. [illegible] morali tit. 5. cap. 4. Suarez [illegible] [illegible] in summa [illegible] [illegible] pag. [illegible] [illegible] n.º 54. [illegible] allegat. 72. n.º 81. idem Barbosa tit. 1. [illegible] ecclesiastico cap. 38. n.º 130 et in collectaneis [illegible] de servis non ordinandis, et denique [illegible] in [illegible] ad Decretales collectanea [illegible] ad textum in cap. Servus [illegible] 54 dist. ubi plures de more [illegible] [illegible] qui hanc [illegible] [illegible] exornant. =

n.º 2

Licet haec nostra conclusio tot viribus corroborata et fulcita [illegible] sit, tamen nonnullas patitur dubitandi rationes. 1º Prima [illegible] [illegible]; nam certe a omni iure [illegible] [illegible] acceptio personarum tamen [illegible] in [illegible] ordinibus et alia spiritualia ministeria exercenda, iuxta illud Divi Pauli dictum 3 ad Galatas: [illegible] [illegible] [illegible] [illegible] quicunque [illegible] in Christo baptizati estis, Christum induistis, [illegible] non est servus nec liber, non est masculus nec femina; omnes enim vos unum estis in Christo Iesu; ita docent D. Hieronymus [illegible] ad [illegible], D. Isidorus tit. 3. de summo bono. [illegible] Ambrosius [illegible] illud [illegible] [illegible] [illegible] personarum acceptationem habere [illegible] [illegible] [illegible] [illegible] acceptio personarum [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] liberi ordinari possunt, ita etiam poterunt servi [illegible] [illegible], [illegible] qui ad [illegible] ordines [illegible] sunt [illegible] [illegible] liberis requiruntur, [illegible] [illegible] [illegible] aequaliter [illegible] [illegible]. = 2º [illegible] nascitur ex [illegible]; nam certum [illegible] Validus [illegible] [illegible] matrimonium carnale ad spirituale [illegible] [illegible] cum vulgatis [illegible] [illegible] [illegible] Servi in potestate Domini constituti [illegible] libertatis [illegible] [illegible] [illegible] matrimonium [illegible] [illegible] [illegible] sicut in [illegible] nec [illegible] [illegible] est a Sacramentis [illegible] removendus; [illegible] [illegible] matrimonia debent [illegible] prohiberi cap. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Sanchez tit. 7. de matrimonio [illegible] 19. 20. [illegible] Coll. [illegible] [illegible] [illegible] n.º 1. [illegible] Gutierrez de matrimonio [illegible] Basilius tit. 7. de matrimonio [illegible] [illegible] Similiter poterunt [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Domini [illegible] accedat [illegible] [illegible] servi consecrati Deo [illegible] [illegible] Domini [illegible] [illegible] [illegible] [illegible] [illegible] Deo [illegible] tit. 6. [illegible] ordinatus [illegible] [illegible] [illegible] liber remaneret [illegible] [illegible] [illegible] [illegible] [illegible]. =

n.º 3

Dominio adversus [illegible] [illegible] Romanos [illegible] Servos [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] servi [illegible] mulieres, quinque [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] sufficienter [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Marcello in L. [illegible] [illegible] [illegible] Ulpiano in L. Praetor [illegible] [illegible] Praetor [illegible] [illegible] [illegible] [illegible] [illegible] servi [illegible] [illegible] [illegible] fecisse [illegible] Imperatorem [illegible] [illegible] in Vita [illegible] [illegible] libro tit. 29. [illegible] [illegible] Servorum [illegible] Libertate donasse ut [illegible] [illegible] [illegible] [illegible] Servi [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] sacris ministeriis removendos. =

n.º 4

Omnibus his [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Dicendum [illegible] [illegible] [illegible] [illegible] [illegible] Servum in potestate Domini constitutum ordinari non posse, nisi plena [illegible] [illegible] [illegible] [illegible] [illegible] servum [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] omnes homines [illegible] [illegible] et [illegible] [illegible] [illegible] rem [illegible] [illegible] [illegible] [illegible]

[illegible] ab [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

Liberi nascerentur [illegible] l. manumissiones 4. ff. de iust. et i., l. quod attinet ff. de R. iuris, § ius autem gentium inst. de i. [illegible] gentium et civili, unde ab omnibus institutariis [illegible] traditur; tamen veriusque pensata statutum fuit, ut servi nulli essent pluribus modis accidere, ut constat ex integro instit. tit. de iure personarum; quippe quemadmodum olim observatur, ut [illegible] essent communia et capientium fierent, eo modo vero fuisse fuit statuta propterea quod [illegible] lucri [illegible] prohibere, et arcere allios a multorum rerum usu ac usufructu; [illegible] semper alienum [illegible] cupiebant, natura [illegible] contrarium dictante et suadente; itaque similiter licet ab initio omnes homines essent liberi, ut iam dicti, [illegible] natura [illegible] ut servi introducerentur; ad quod statuendum plurima fundamenta coegerunt legumlatores, [illegible] homines vita, quae omnibus rebus [illegible] et [illegible] Ovidii Metamorphoseos; O [illegible] hanc animam concede mihi; tua caetera sunto. et ex iuvenali [illegible] Da spatium vitae, multos da Iuppiter annos [illegible] homicidio, l. sancimus C. de [illegible]. Solebant [illegible] hostes in bello captos occidere [illegible] humanum [illegible] in diminutionem quam in augmentum ibat, ex matrimonii sacramento [illegible] ff. [illegible], ad quod vitandum [illegible] est, ut [illegible] potestate, unde servus a servando dici docet Iustinianus in § servi autem instit. de iure nat. gentium et civili. [illegible] licet apud infideles si quis in bello capiatur, servus ipsorum efficiatur; tamen apud nos antiquissima et optima [illegible] lege regia comprobata invaluit, ut Christiani bello victi non efficiantur Christianorum servi; vero si Mahometani, [illegible] homines capiantur servi efficiuntur. ut tradit Boerius decis. 178. Simancas de Catholicis institut. cap. 6. n. 2. [illegible] peccatis [illegible] § 11. n. 6. =

Plurimus animadvertendum [illegible] servos adeo [illegible] [illegible] [illegible] itaque certum [illegible] nihil proprium habere posse, [illegible] statim dominis [illegible] [illegible] l. adquiruntur [illegible] 32. ff. de adquirendo rerum dominio l. placet [illegible] 4. de [illegible] [illegible] in potestate domini instituti [illegible] [illegible] testamenti [illegible] [illegible] testamentum [illegible]. similiter [illegible] testes [illegible] l. qui testamento 20 § servus ff. qui testamento facere possunt [illegible] [illegible] testimonium [illegible] [illegible] liberi [illegible] [illegible] [illegible] [illegible] L. [illegible] C. de [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] servi [illegible] [illegible]. [illegible] [illegible]

[illegible] servi [illegible] quoniam [illegible] tradit [illegible] Faber in [illegible] cap. 27. [illegible] [illegible] dignitas est. l. [illegible] [illegible] 3. C. de [illegible] [illegible] tradit [illegible] cap. 7. n. 4. [illegible] Gregorius [illegible] cap. 3. n. 9. [illegible] [illegible] [illegible] [illegible] [illegible] servos [illegible] [illegible] Pancirola [illegible] memorabilium tit. de [illegible] Cuiacius [illegible] [illegible] [illegible] = [illegible] dignitatibus, et officiis [illegible] [illegible] [illegible] quos libenter [illegible] in [illegible] nostris [illegible] [illegible] =

His [illegible] propositis [illegible] [illegible] [illegible] dominus [illegible] ordinari [illegible] posse, nisi plenam libertatem [illegible] fuerint consequuti; [illegible] optime [illegible] Angelico [illegible] 92. ar. 2. quatenus [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] facere [illegible] [illegible] dominus [illegible] [illegible] [illegible] dignitatis [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] dist. [illegible] debet [illegible] [illegible] qui divinis militiis [illegible] [illegible] dominio, [illegible] liber nullis necessitatis vinculis abstrahatur. [illegible] Basilius in epist. ad [illegible] [illegible] [illegible] [illegible] [illegible] dignitas et authoritas [illegible] [illegible] [illegible] can. 3. [illegible] obligatus [illegible] servitutem, qui [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] libertatem. [illegible] [illegible] 51. [illegible] 3. n. 1. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] posse, [illegible] [illegible]

[illegible] itaque ex Hostiensis Venetiis [illegible] rationes dubitandi ad [illegible]

n. 1.

[illegible] admittendum [illegible] tamen dicendum est [illegible] concurrentibus personis dignioris respectu [illegible] provisio facta [illegible] acceptio personarum [illegible] Nec magis obstat 2a difficultas [illegible] verum licet certum sit [illegible] matrimonio carnali ad spirituale validum esse, tamen hoc debet intelligi [illegible] certum sit servos recte posse in [illegible] Domini sui matrimonium contrahere [illegible] nam matrimonii sacramentum fuit institutum [illegible] ad propagationem generis humani [illegible] magna et valde detestabilia peccata, quae committunt servos [illegible] adhuc servi remanent, et debita [illegible] accipiunt [illegible] Thomas [illegible] matrimonio [illegible] Domini sui exhibere tenentur cap. 1. de coniugio servorum [illegible] Domini sui [illegible] at vero sacramentum ordinis [illegible] in sacris [illegible] aut alterum [illegible] servus debebat remanere [illegible] recte [illegible] ad dicendum [illegible] aut liberandum apud Dominum [illegible] Nec hinc obstat [illegible] servus Domini [illegible] ordinari [illegible] esse [illegible] cap. 1. de [illegible] nec servus est a sacris [illegible] debere intelligi [illegible] sacramentis [illegible] qualia sunt Baptismus, confirmatio [illegible] quae [illegible] ordo [illegible] Viatici [illegible] servorum [illegible] sacramentis = Nec obstat [illegible] argumentum [illegible] [illegible] infirma [illegible] intelligendum [illegible] atque [illegible] in quibus [illegible] est [illegible] de [illegible] [illegible] in quo [illegible] [illegible] servitutis ad quod vitandum [illegible] statuit servos [illegible] esse ordinari [illegible] Domini sui [illegible] difficultas [illegible] [illegible] n. 11. =

[illegible] obstat [illegible] difficultas [illegible] ex aliquibus [illegible]

n. 2.

[illegible] exquibus [illegible] servus admitti posse [illegible] dignitates, et muneri publica [illegible] ordinari recte posse. Nec obstat [illegible] habitatio [illegible] admittendo [illegible] sufficienter [illegible] qui [illegible] de dignitate servi loquuntur [illegible] dicendum [illegible] intelligendum [illegible] de dignitate aliorum servorum, quemadmodum [illegible] servus respectu alterius servi [illegible] dici dominus [illegible] ita et similiter servus [illegible] dici [illegible] dignitatem habere respectu alterius servi, ita docente Tiraquello de nobilitate [illegible] Nec magis obstat [illegible] [illegible] de Usuris [illegible] de tabellionatu officio loquuntur, nam [illegible] in [illegible] servus publicus dici tabellio [illegible] ad serviendum [illegible] dicendum [illegible] servus publicus dici servus tabellionis [illegible] servi [illegible] et tabelliones ante prohibitionem [illegible] C. de tabul. [illegible] tradit [illegible] commentar. [illegible] tabellionatus officium honorificum fuerit [illegible] notat [illegible] tabellione = Nec obstat [illegible] de [illegible] Joachinus [illegible] n. 21. [illegible] ministerium [illegible] tradit Antonius Faber [illegible] Nec obstat [illegible] de sepulcro violato, nam [illegible] Sebastiano [illegible] de sepulturis [illegible] servus [illegible] capacem [illegible] actionis [illegible] posse sepulturam eligere quia [illegible] mortuus, dicendum est servum esse capacem electionis sepulturae, et actionis de sepulcro [illegible] sepulturam [illegible] naturali [illegible] testante Petro [illegible] de Semestris c. 1. [illegible] natus capax est servus [illegible] [illegible] naturaliter [illegible] ad mortuum [illegible] inferatur, in quo [illegible] sepulcrum [illegible] qui [illegible] ex [illegible] ita tradit Narbona [illegible] 47. n. 3. et denique non obstat [illegible] Imperator Antoninus [illegible] admitterentur [illegible] tempore necessitatis [illegible] tempore hoc posse [illegible] certum est [illegible] [illegible] 19. [illegible] cap. 3. n. 9. =

Ex quibus omnibus [illegible]

n. 9.

[illegible] Gregorius [illegible] relatus in cap. Venerabilis 37. de praebendis, et dignitatibus [illegible] Pontifici Gregorio [illegible] praebenda vacaverat [illegible] qui tunc temporis [illegible] Capitulum [illegible] electum [illegible] Joannis [illegible]

Consuetudo illius ecclesiae, qua observabatur ut nullus in ipsa ecclesia reciperetur, nisi nobilis, liber, et ab utroque parente illustris [illegible]
honestae conversationis, et eminentis scientiae [illegible]. Cum omnia haec [illegible] in [illegible] Joanne [illegible] electo, [illegible]
[illegible] petijt a Romano Pontifice, ut quam ordinatus confirmaret Canonicos [illegible] custodire [illegible] Capituli [illegible]
[illegible] consuetudinis allegans; [illegible] quare [illegible] Pontifex respondit, [illegible] debeat attendi genus [illegible] nobilitas [illegible]
[illegible] mandans [illegible] ad [illegible] admitti [illegible] Canonicos, [illegible] dignitas vacaverit [illegible] erat [illegible]
nec in contrarium faciente capituli supra proposita consuetudine [illegible] Servus [illegible]
et a Pontifice confirmatus [illegible] Servus [illegible] ordinari [illegible] Consuetudinem. [illegible] difficultatis [illegible]
[illegible] statutum, et consuetudo [illegible] disponens [illegible] nobiles [illegible] recipiantur ad beneficia et dignitates [illegible]
[illegible] defendant tale statutum validum esse, [illegible] ad beneficia [illegible]
[illegible] ecclesiasticus admittatur; tamen certo certius est tale statutum [illegible] valere, et talem consuetudinem vigere [illegible], [illegible]
[illegible] acceptione personarum habenda, cap. [illegible] tradunt [illegible] Gabrielis [illegible] n. 26 [illegible]
[illegible] Clericis [illegible] n. 2 [illegible] Panormitanus in cap. Venerabilis. n. 4 [illegible]
[illegible] 20 [illegible] hoc [illegible] necessitate [illegible] confirmatio Pontificis [illegible]
[illegible] certum est, quod licet Canonici [illegible] ut nullus Canonicus [illegible] liber, tamen [illegible]
[illegible] Servus [illegible] necessarium quod a Papa [illegible] nominetur [illegible] confirmetur, quemadmodum [illegible] nobiles [illegible]
[illegible] ita similiter liber [illegible] qui Servus [illegible] licet in hominibus [illegible] considerari nobilitas [illegible]
generis; [illegible] laudandi sunt parentes, [illegible] illud [illegible] nobilis es, lauda parentes, [illegible] nobilitas [illegible] cap. [illegible] 56 [illegible]
alterevero virtus [illegible] quis [illegible] semetipsum [illegible] tamen [illegible] aestimabilior est. [illegible]
[illegible] laudibus [illegible] fulgere meritis, [illegible] majorum opinione niti. [illegible]
parentibus [illegible] virtutibus se dicarunt; [illegible] qui ex nobili [illegible] habuit exemplar nobilitatis [illegible]
[illegible] ex [illegible] nobiles [illegible]
Verba sunt Abbatis Panormitani ubi [illegible] n. 4 [illegible] et licet hic ita se habeant; non tamen sequitur posse Servus [illegible]
[illegible] libertatem a Domino suo [illegible] = Verum [illegible]
[illegible] venerabilis [illegible]
ipse legatus ille potuit providere beneficia [illegible] Sedem Apostolicam devoluta erant, [illegible]
[illegible] cap. 1. de officio legati [illegible] difficultatem [illegible]
fuisse confirmatum a legato [illegible] fuerat, [illegible] potuisse facere legatus [illegible]
[illegible] confirmatus [illegible] facta [illegible]
[illegible] Cardinalis [illegible]
[illegible] Pij Quinti, quem refert Barbosa de [illegible]
[illegible] Cardinalis [illegible] Sabel [illegible]
[illegible] a latere Cardinalis [illegible] beneficia vacantia [illegible] legationis [illegible] devoluta ad summum Pontificem [illegible]
[illegible] 5. cap. [illegible] 14. [illegible] legatis tam a latere et tam Cardinalis [illegible] beneficia [illegible]
[illegible]

Secundo [illegible] ad decidendum [illegible] inter [illegible] et Concilium Tridentinum
[illegible] 20.
Primum [illegible] 20. ex [illegible] colligitur quod [illegible] Servus [illegible] Domino, [illegible] fuerit ordinatus [illegible]
[illegible] Clericatus [illegible] Servus Domino, [illegible] tantum [illegible]
[illegible] Servus [illegible] voluntate Domini nulla [illegible] libertate Ordinari [illegible]
[illegible] Concilium [illegible] explicemus [illegible]
[illegible]
[illegible]
[illegible]
Scienter ordinatur [illegible] liberum [illegible] Servus, [illegible] Domino
[illegible] Domino ad [illegible] licentiam [illegible] assumptus [illegible]
[illegible] cap. [illegible] Servus [illegible]
cap. [illegible] de Servis non ordinandis, [illegible] Domino [illegible]
[illegible] Domini [illegible]
[illegible] ordinationis [illegible] absolvitur [illegible]
[illegible] ad ordinem Diaconatus [illegible] ordinatur [illegible] Servus [illegible] ipse Servus tenetur
[illegible] de Servis non ordinandis [illegible]

[illegible] 54 dist. [illegible] ad [illegible] literarum ascenderit in [illegible] ordine remanebit [illegible] [illegible] multitando [illegible] de servis [illegible] ordinari, et cap. ex antiquis, quod si peculium habeat serviet Domino in [illegible] officiis, cap. frequentes 54 [illegible] [illegible] [illegible] 14. § 2 cap. 8. Verum si Dominus [illegible] per annos [illegible] [illegible] tacuerit [illegible] [illegible] [illegible] 3 volebat, [illegible] liber remanebit, [illegible] servus sciente [illegible] 54 dist. quippe [illegible] [illegible] [illegible] annis dissimulaverit, censetur consentire et servum manumittere, ita tradunt Barbosa [illegible] [illegible] allegat. [illegible] no. 55. [illegible] [illegible] [illegible] 3 [illegible].

Inferturum [illegible] ad [illegible] prohibendus [illegible] 54 dist. [illegible]

No. 1.

Ubi statuitur libertos, quorum patroni in seculo remanent ad Clerum adscendere nunquam esse, et tamen [illegible] liberos esse; [illegible] sufficit [illegible] liberi, [illegible] sequantur libertatis [illegible] Dominis [illegible] adhaereant possint ordinari. [illegible] difficultas facile [illegible]. Si dicamus [illegible] [illegible] [illegible] [illegible] ordinari [illegible], quoniam aliquod obsequium temporale debebat patrono [illegible] ut liberti ordinari possint [illegible] debet [illegible] [illegible] a Domino [illegible] [illegible] [illegible] Concilium Illiberitanum can. 87. pag. 226. quam [illegible] tradunt eleganter [illegible] de irregularitate [illegible] [illegible] [illegible] ordinem [illegible] liberti ordinantur [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] solvendo [illegible] remanentes, et [illegible] [illegible] [illegible] manumissio et plena Dominis servus ordinatus [illegible] [illegible] [illegible] ordinatus cedit [illegible] patrono [illegible] seculo remanentes [illegible] obsequium [illegible] [illegible] obsequium spirituale, quale [illegible] Canonicos [illegible], quippe [illegible] Dominus servus [illegible] [illegible] [illegible] possessionem spiritualem [illegible], imo aliqui sunt qui [illegible] [illegible] [illegible] [illegible] [illegible] ordinantur ad [illegible] spirituale. Vel si [illegible] placuerit, poterit dicere [illegible] [illegible] servus [illegible] manumittantur, et ordinentur, maneant aliqua [illegible] [illegible] [illegible] ita [illegible] [illegible] [illegible] [illegible] alia negotia, quae Clericis indecentes [illegible] [illegible] ex [illegible] cap. Diaconi [illegible] 2 [illegible] familia [illegible] [illegible] [illegible] [illegible] Domini [illegible] statum Clericali [illegible]

[illegible]

[illegible] [illegible] 3. [illegible] [illegible].

Quarto [illegible] Canonem [illegible] [illegible] [illegible]

No. 2.

[illegible] Dominorum voluntate [illegible] [illegible] servus [illegible] gradu ordinatur [illegible] [illegible] (qualis [illegible] Onesimus apparuit) [illegible] Domini consenserint, manumque [illegible] [illegible] [illegible] [illegible] plenam [illegible] [illegible] [illegible] adhaereat servus [illegible] sufficere [illegible] plenam [illegible] voluntas Domini necesse [illegible] [illegible] [illegible] [illegible] manumissio. Verum haec difficultas potest duplici modo dissolvi. [illegible] dicendo [illegible] Apostolus [illegible] [illegible] vera manumissio [illegible], cum manumittens libertatem faciat, [illegible] faciendi habeat [illegible] [illegible] omnia [illegible] = [illegible] dicere Canones [illegible] [illegible] Apostolorum, authoritatem [illegible] Canones 40. [illegible] ex [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] cap. Sextam [illegible] cap. Placuit [illegible] 16. [illegible] Canones Apostolorum authenticos esse, [illegible] authoritatem [illegible] ex Sinodo Trulana [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] placuit [illegible] 16. [illegible] Utrumque hi Canones Trulani [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] cap. 26. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] no. 5. Barbosa in cap. Sextam [illegible] no. 16 [illegible] [illegible]. =

[illegible]

No. 3.

[illegible]

+

Relectio ad text. in Capp. Ex parte 3. et Significavit. 4
de corpore vitiatis. Lib. 1. tit. 20.

= Relectio ad textum in cap. ex[illegible] 3. cap. Significavit 4. de Corpore vitiatis =

n. 1.

Haec Duo Nostri Clementis 3. Pontificis Maximi Decreta quasi unam, eandem [illegible] [illegible] unico commentario illustranda, et examinanda arbitramur. [illegible] Sicut [illegible] integer hic titulus de corpore vitiatis [illegible] [illegible]. Quae hic igitur [illegible] agitata est et [illegible] illis, qui in [illegible] fuerint [illegible] [illegible], in iam facti maiores virilia sibi abscinderunt. ad quam [illegible] respondit [illegible] Dicens [illegible] licet [illegible] Concilii Niceni [illegible] [illegible] [illegible], qui sani virilia sibi amputari [illegible] [illegible] ad Clericatus [illegible] adscendere prohibeantur, et si in Clero sint non debeant [illegible] ministrare, [illegible] [illegible] [illegible] fuerint licite promoveri tanquam ab omni [illegible] labe immunes. Ex quo [illegible] sequitur conclusio utramque decisionem [illegible], et amplectens [illegible] venit. Sacerdos ille qui sine causa sibi virilia [illegible], abscindi ve fecit tanquam irregularis ad Clericatus ordines adscendere [illegible] [illegible], et in ordinibus ante [illegible] constitutis ministrare potest; [illegible] [illegible] aliqua ex causa [illegible] fuerit, [illegible] in [illegible] [illegible] [illegible] tunc enim licite promoveri potest. Quod [illegible] probatur ex textu in cap. ex parte 5. hoc [illegible] de Corpore vitiatis, [illegible] ex textu in cap. [illegible] 33. dist. [illegible] 9. cap. [illegible] 4. cap. [illegible] 5. cap. qui [illegible] 6. cap. [illegible] cap. Eunuchus 8. [illegible] pluribus aliis 55. dist. probatur [illegible] ex Canone 21. et 22. Apostolorum. [illegible] [illegible] ex [illegible] [illegible] 6. n. 1. examinant, et illustrant hanc materiam [illegible] [illegible] [illegible] Abbas [illegible]. Ioannem Andream, et [illegible] [illegible] in [illegible] 2. [illegible] 6. de homicidio, [illegible] [illegible] [illegible] Lanc[illegible] [illegible] [illegible] cap. 174. Silvester in summa [illegible] [illegible] n. 3. [illegible] 2. cap. 9. Dubitat. 4. [illegible] in Summa Ecclesiasticae disciplinae [illegible] Eunuchus, et [illegible] membris; [illegible] [illegible] [illegible] [illegible] 2. cap. [illegible] Salcedo in practica [illegible] cap. 47. [illegible]. Alphonsus de Castro [illegible] 6. adversus haereses [illegible] Eunuchus [illegible] 436. [illegible] in practica beneficiali [illegible] [illegible] [illegible] Corpore vitiatis ex n. [illegible] [illegible] [illegible] [illegible] 1. [illegible] 2. [illegible] 97. n. 2. [illegible] de irregularitate [illegible] 1. cap. 15. Petrus [illegible] 2. [illegible] [illegible] cap. [illegible] Suarez [illegible] [illegible] 51. [illegible] [illegible] de Sacris [illegible] [illegible] per totum; Tiraquellus in L. 9. [illegible] [illegible] [illegible] cap. 31. n. 475. Barbosa in Collectaneis ad [illegible] [illegible] [illegible] in Collect. ad Decretales [illegible] [illegible] cap. [illegible] 3. [illegible] [illegible] qui plures alleg[illegible] [illegible] referunt hac in re [illegible] =

Trevisanus [illegible] [illegible] 2. n. 22.

n. 2.

Verum licet haec nostra conclusio tot viribus tot que authorum testimoniis [illegible] verissima sit, difficilis tamen redditur ex sequentibus dubitationibus et [illegible] [illegible] [illegible] abscindentis sibi virilia nulla ex causa adstante ad Clericatus ordines [illegible] [illegible] dubium facit [illegible] [illegible]. [illegible] [illegible] nihil aliud [illegible] [illegible] [illegible] [illegible] [illegible] qualitates ordinandi [illegible], qualia sunt [illegible] legitima; Scientia, probitas morum, et [illegible] [illegible] [illegible] [illegible] [illegible] an ordinandus aliquem defectum [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] sit [illegible] [illegible] enim mutilatio corporis [illegible] [illegible] [illegible]; [illegible] [illegible] [illegible] [illegible] abscindentem [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] similiter [illegible] qui sibi [illegible] [illegible] virilia, [illegible] [illegible] [illegible] [illegible] [illegible] ministerii exercen[illegible].

n. 3.

Secundum dubitationem [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Paulus [illegible] [illegible] [illegible] [illegible]. Licet enim et servus naturaliter sui corporis [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] membra sibi abscindere, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] =

n. 4.

Ultimo adversus [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Corpore vitiatos ad Clericatus ordines [illegible] corpore vitiato ordines [illegible] [illegible] [illegible] [illegible] [illegible] =

[illegible]

n.° 5.

Quibus [illegible] dubitationibus [illegible] obstantibus, dicendum est [illegible] nostram assertionem, [illegible] [illegible] abscindit promoveri posse, nisi aliquid [illegible] ad [illegible] accidendum fuerit motus, vel [illegible] hoc evenerit, cuius conclusionis [illegible] ut adiscamus, [illegible] nulla magis necessaria et valde [illegible] proponere expedit, cum primus cum dispensatione illorum agamus, qui virilia sibi abscindunt, sciendum est olim magno [illegible] habitos fuisse eunuchos et castratos, et tam etiam [illegible] [illegible] [illegible] magnis et insignibus dignitatibus ornatos fuisse, [illegible] demonstrant; Narses enim Justiniani [illegible] dux [illegible] fuit, qui [illegible] Gothos ex Italia expulit; Eutherius [illegible] cubiculo Constantii [illegible] variis [illegible] intervallis spadones [illegible] [illegible]. Amplius ita castrati [illegible] cubiculis custodiendis [illegible] in L. 1. C. [illegible] Sacri [illegible] aliis quam [illegible] dignitatibus [illegible] decoratos fuisse testatur Terentius in [illegible] [illegible] [illegible] Colt. in [illegible] l. 12. [illegible] n. 6. [illegible] Alciat [illegible] [illegible] Alciato lib. 7. parergon cap. 32. Ludovicus Caelius lib. 2. antiquarum lectionum cap. 37. Antonius [illegible] lib. 3. emendationum cap. 5. penes quos omnes plurima de eunuchis qui aliqua fuerunt ornati dignitate, quilibet invenire [illegible] [illegible] [illegible] notare. = [illegible] [illegible] observarent [illegible] [illegible] generis humani castrarentur, adeo ut fuissent [illegible] necessarium [illegible] Dei benedictionem [illegible] eunuchus fit, quod late prosequitur [illegible] adversus Haereses ubi eunuchos [illegible] 90; tamen [illegible] [illegible] [illegible] et feminae, et virilis sexui [illegible] [illegible]; fuitque statutum a Domitiano [illegible] ut pueri [illegible] [illegible] gravissimae statutae fuerunt poenae adversus eos qui castrare solebant pueros ut eos venderent, [illegible] ex L. [illegible] quilibet [illegible] ex L. 4. §. item [illegible] ad L. Corneliam de sicariis, et ex Martiali lib. 6. epigrammatum. Et postmodum [illegible] Constantinus legem promulgare fecit sub multis poenis ne eunuchi fiant in urbe Romana ut [illegible] L. 1. et 2. C. de eunuchis. [illegible] [illegible] [illegible] alias poenas [illegible] addita fuerunt et confirmata [illegible] [illegible] cap. [illegible] [illegible] pag. ubi Gregorius Lopez [illegible] [illegible]. = Quamvis [illegible] [illegible] abscissio [illegible] [illegible] turpis apud gentiles censebatur teste Valerio Maximo lib. 6. cap. [illegible] ubi refert Mamercum Aemilium consulem [illegible] quendam hereditatis [illegible] [illegible] [illegible] a tribunali [illegible] eique bonorum [illegible] [illegible] [illegible] negasse, quod [illegible] [illegible], ut est [illegible] matris Magnae amputatis sui ipsius [illegible] genitalibus [illegible] partibus nec virorum [illegible] numero haberi deberet. Et in Deuteronomio cap. 23. legimus eunuchum [illegible] [illegible] ingredi in [illegible], quasi [illegible] [illegible] [illegible] tradit Philo [illegible] [illegible] Abraham. [illegible] [illegible] et [illegible] quod refert Socrates [illegible] [illegible] lib. 4. c. 23. [illegible] Ammonium [illegible] [illegible] ut [illegible] recusaret [illegible] [illegible] [illegible] auriculam abscidisse, [illegible] [illegible] [illegible] doctrina [illegible] a Theophilo Alexandrino episcopo electus [illegible] nullus [illegible] [illegible] [illegible] [illegible], ac [illegible] Ammonio [illegible] voluntarie auriculam abscidisse, quasi [illegible] apud Deum [illegible] [illegible] respondisse commemorat. [illegible] [illegible] [illegible] apud Deum [illegible] quod linguam [illegible] abscidens [illegible] [illegible], gratia [illegible] [illegible] [illegible] ubi [illegible] [illegible] lib. 8. [illegible] c. 2. tradit [illegible] [illegible] [illegible] [illegible] n.° 6. in [illegible] homicidio. =

n. 6.

Rursus ut propositam accedamus ad [illegible] [illegible] qui [illegible] [illegible] [illegible] propositi, animadvertendum est [illegible] [illegible] [illegible] [illegible] qui [illegible] [illegible] [illegible] [illegible] illos qui [illegible] aliquam [illegible] [illegible], quod adeo verum est, ut [illegible] [illegible] irregulares efficiantur; [illegible] irregularitatis [illegible] in lege antiqua observabatur, ut constat ex Levitici cap. 21. ubi legitur Dominum ad Moysem [illegible] dicentem verba: homo de semine tuo qui [illegible] [illegible] [illegible] [illegible] offerat panes Deo suo, nec accedat [illegible] ministerium eius, si caecus fuerit, si claudus [illegible] parvo vel grandi, vel torto naso, si fracto pede, si manu, si gibbus, [illegible] [illegible] [illegible] in oculo, si [illegible], si scabiem, si impetiginem [illegible] corpore vel herniosus sit. [illegible] verborum sensum [illegible] et [illegible] explicat [illegible] Gregorius [illegible] cap. 11. [illegible] pastoralis, cuius authoritas refertur in cap. [illegible] [illegible] [illegible] dist. = Similiter [illegible] apud gentiles observabatur ut sacerdos integer [illegible] corpore [illegible] sacrorum ministrum, ut apud Romanos [illegible] a tempore Romuli observatum fuit, qui sacerdotes eligi [illegible] excellentes, nec corpore ullo [illegible] [illegible], ut testatur Dionysius Halicarnasseus lib. 2. Romanarum antiquitatum [illegible] [illegible] laudat Romulum Romanorum legumlatorem, qui sacerdotes [illegible] [illegible] curia [illegible] [illegible] quinquagesimum [illegible] excellentes genere simul, et virtute [illegible] [illegible], nec tamen [illegible] aut corporis [illegible] [illegible] [illegible] eligi [illegible] [illegible] Plinius lib. 7. naturalis historiae, Seneca lib. 4. declamationum declamat. 2. = [illegible] [illegible] [illegible] [illegible] veterum Romanorum mos, qui [illegible] virginem [illegible] vestalem capi [illegible] [illegible] aliqua [illegible] labe [illegible] [illegible], [illegible] tradente Aulo Gellio lib. 1. noctium Atticarum cap. 12: [illegible] [illegible] [illegible] [illegible]

[illegible]

Alex.ᵉʳ ab Alex.ᵒ lib. 6. dierum Genialium cap. 19. plura alia huc expectantia proponere possem; Verum ut ad utiliora deveniam, lubenter omitto, animadvertens studentes esse videre Andream Tiraquellum in l. 2. Connubiali n.º 59. Menochium lib. 2. de arbitrarijs Cent. 5. casu 226. Coll. in [illegible] [illegible] et alij relati a Salcedo ubi sup. n.º 3. ubi [illegible] =

n.º 7.

Denique sciendum est quod licet [illegible] camus [illegible] vitiatos ordinandos, et promovendos non esse, tamen hoc aliquando [illegible] intelligendum [illegible] observandum; quippe lex illa despermitos homines sacris initiari vetat, qui sacra ministeria exercere nequeunt, ut [illegible] dicit, vel [illegible] vel aliud simile patiatur vitium [illegible] in cap. 2. hoc tit. de corp. vitiatis, [illegible] aliquod sive vitium personale quis patiatur recte ordinari potest, qualis est de [illegible] macula in oculo magnus deformitatis [illegible] cap. Cum de tua elect. [illegible] hoc tit. [illegible] Tiraquellus [illegible] cap. [illegible] hoc tit. [illegible] de Sensu [illegible] disp. 51. sect. 2. n.º 12. ideoque si vitium quod quis patitur aliquod ministerium tantum exercere prohibuerit, in ceteris ministerijs recte ministrare [illegible], veluti si quis patiatur vitium in his digitis, quibus consecratio et elevationes sunt necessariae, tunc enim a celebratione [illegible] tantum a [illegible] a subdiaconatus, vel diaconatus ministerio vel si quis ab altaris ministerio arceatur, loco illo nulla inveniatur deformitas, minime tamen impeditur ab eo [illegible] sacris ministrare, ita [illegible] absolutis. = Qui irregularitatis [illegible] licet habeat [illegible] ille qui tale vitium patiens, ordinari desiderat; tamen si de facto ordinetur vere recepit Ordinis Characterem, cuius tamen executionem minime [illegible] Salcedo loco [illegible] cum aliquibus [illegible] =

n.º 8.

Quibus ita constitutis [illegible] veritatem [illegible]

Dicitis asserendo sacerdotes virilia sibi abscidentes tamquam irregulares ad ordines admittendos [illegible] nisi aliqua [illegible] fuerit, vel id in [illegible] acciderit; Cuius assertionis [illegible] rationem, ac [illegible] a Doctoribus reddi [illegible]. Verum [illegible] magis placet quod docet ideo hos [illegible] irregulares [illegible] aut ordinari nequeant, et si ordinati sint, in ministerio cessent, quoniam talia faciens sui ipsius homicida est, ob quod [illegible] inimicus efficitur, nemo namque se ipsum occidere potest, nec aliquid facere ex quo [illegible] contineat, [illegible] membrorum suorum dominus sit [illegible] liber homo [illegible] facti [illegible] sic [illegible] faciens irregularis efficitur, et talionis [illegible] [illegible] ex [illegible] de homicidio; [illegible] caput ut homicida sibi [illegible] effici [illegible] [illegible] qui in se [illegible] ministerio omnes [illegible] exercere, probant hoc [illegible] [illegible] de [illegible] edicto, [illegible] §. antepenult. ff. de [illegible], qui ante [illegible] mortis [illegible] [illegible] Vulgare,

Qui sibi non parcet, tibi [illegible] quomodo parcet.

merito [illegible] abscindentes virilia tamquam irregulares ad ordines admittendos [illegible], tradit hanc [illegible] in cap. [illegible] 5. [illegible] h. tit. [illegible] [illegible] omnes [illegible]; [illegible] asserunt [illegible] si aliqua [illegible] fuerit, [illegible] est enim [illegible] resecare [illegible] 16. [illegible] 9. [illegible] 1. 5. 9. 5. [illegible] [illegible] tunc hoc solet [illegible] maiora vitanda mala, [illegible] ex [illegible] fiat, [illegible] debet [illegible] de [illegible] [illegible] Salcedo [illegible] Coll. [illegible] = [illegible] obstant [illegible] n.º [illegible] [illegible]

n.º 11.

Dicebamus [illegible], qui promovendus [illegible] [illegible] quam [illegible] [illegible] [illegible] Vitium quod patiatur, [illegible] [illegible] ordinari [illegible] et [illegible] = [illegible] hinc quod quam obstat auctoritas [illegible] Apostolorum [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] quibus vitium [illegible] potest [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Canon [illegible] Apostolorum [illegible]

[illegible] Mercur[illegible] [illegible] cit. n° 18. = Nec [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] unicuique [illegible] [illegible] Seniis, et non Videbatur Dicendum [illegible] [illegible] sibi Virilia [illegible] [illegible] [illegible] [illegible]
[illegible] exercentes; nam Dicendus [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
Solutionibus [illegible] [illegible] [illegible] [illegible] [illegible] ut nemo [illegible] [illegible] ut diximus = [illegible]
altera Dubitandi ratio adducta; nam etsi certum sit nemini absque ulla [illegible] [illegible], [illegible] [illegible] [illegible]
habere absque ulla [illegible] tamen ad ordinem [illegible] admittendus non est, quoniam ille qui [illegible] [illegible] [illegible] [illegible]
est absque aliqua macula debet esse; [illegible] [illegible] militaris militis semper [illegible] nobiles, [illegible] [illegible]
[illegible] qui militiae [illegible] [illegible], ita tradit Salcedo loco citato. =

n. 10.

Ex quibus omnibus, [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] Divi Mathei authoritas [illegible] [illegible] [illegible], ex qua [illegible] [illegible] [illegible]
[illegible], qui se propter regnum Coelorum castraverunt, ita ut ipsi [illegible] [illegible] [illegible], [illegible] adhoc ut [illegible]
[illegible] regni Coelorum, licitum, et permissum unicuique [illegible] [illegible] Virilia [illegible] [illegible]
[illegible] Dicendus virilia sibi amputantes [illegible] irregulares [illegible] [illegible] [illegible] [illegible]
[illegible] nostris [illegible] [illegible]; Cuius difficultatis dissoluendae causa aliqui dixerunt [illegible]
[illegible] Origines, et alii laudati a Salcedo d° cap. 47. n° 9. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
propter regnum Coelorum [illegible], [illegible] laudabile esse se castrari. Verum hi authores [illegible] [illegible] [illegible] [illegible]
[illegible] Origenes, qui sibi virilia amputavit, ut absque calumnia Verbum Dei [illegible] [illegible], [illegible] [illegible]
[illegible] [illegible] fuisset, Orientalis Ecclesia gravissimo scandalo passa est, [illegible] Demetrius Alexandrinus [illegible]
[illegible] [illegible] quam severe redarguit [illegible] quod Origines [illegible], ita narrant Eusebius [illegible] Historiae Eccles.
Nicephorus Calixti lib. 3. historiae Ecclesiasticae cap. 8. = Verum [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
nec [illegible] servandae, nec [illegible] [illegible] cultus, [illegible] [illegible] unicuique [illegible] [illegible] ad [illegible] [illegible]
membris mutilatis [illegible] [illegible] membrorum suorum dominus [illegible], ut late [illegible] = [illegible] Dicendus [illegible]
Divi Mathei authoritas [illegible] [illegible] [illegible] qui virilia sibi amputarunt, [illegible] [illegible]
[illegible] [illegible] [illegible] promiserunt [illegible] [illegible] [illegible] amore; [illegible] Matthaeus
[illegible] eunuchos [illegible] cap. 19. proponit, alii enim [illegible] sunt eunuchi, qui de matris utero [illegible], alii [illegible]
[illegible] ab hominibus, alii denique qui seipsos castraverunt propter regnum Coelorum, [illegible], qui castitatem [illegible]
[illegible], et quasi [illegible] [illegible] [illegible] ad Coelestem gloriam sese [illegible]. Et [illegible] [illegible]
[illegible] authoritas ita [illegible] [illegible] [illegible] ex cap. 56 Isaiae [illegible] hec dicit eunuchis, [illegible]
[illegible] sabbata mea, et tenuerint foedus meum, dabo eis locum in domo mea, ita explicant [illegible] [illegible]
De virginit. cap. 7. et 24. Divus Hieronymus, [illegible] Ordinaria [illegible] cap. 56 Isaiae [illegible] [illegible] [illegible]
[illegible] cap. 47. n° 9. [illegible] =

n. 11.

[illegible] ex hac eadem [illegible] [illegible] [illegible]
[illegible] Alexandri 3. Decretum relatum in cap. de presbytero 1. hoc [illegible] de Corpore Vitiatis, ubi [illegible]
amittentes partem digiti in Duello voluntario [illegible] ordine [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] similiter [illegible] qui virilia sibi abscindit [illegible] irregularis [illegible] [illegible] [illegible] [illegible]
[illegible] ministrare poterit [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
Dicendus [illegible] cap. [illegible] [illegible] [illegible] [illegible] de [illegible] membri [illegible] [illegible], [illegible] [illegible] est, [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
membri [illegible] est, ut est maioris [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible], [illegible] ad [illegible]. [illegible] [illegible] tradit Suarez [illegible] Disp. 51. sect. [illegible] n° 9 [illegible]. = [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 55. [illegible] ubi [illegible]
[illegible] [illegible] [illegible] sufficere [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] irregularitas [illegible] [illegible] [illegible] [illegible]
ad [illegible] irregularitatis [illegible] sufficiens [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] = 2. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] qui digiti [illegible] amittit in Duello Voluntario, [illegible] [illegible] [illegible] [illegible]
[illegible] qua irregularitas [illegible] [illegible] [illegible]. [illegible] Dicendus [illegible] cap. 14. [illegible] [illegible] [illegible]
[illegible] corporis [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] qui [illegible] Duellum [illegible]

[illegible] peccatum [illegible] Delicti [illegible] [illegible] Clericus [illegible] Christo [illegible] canonica [illegible] Suare [illegible] — Deinde [illegible] ad [illegible]

n. 12.

[illegible] Virilia, Cum [illegible] Deo [illegible] ad sacri[illegible] [illegible] Virilia ad [illegible] accedere [illegible] nam Dicendum [illegible] Virilia [illegible] tamen [illegible] Superiorum [illegible] irregularis [illegible] — Verum [illegible] Superior [illegible] irregularitatibus [illegible] Quare licet [illegible] tamen [illegible] Romano Pontifici [illegible] Romanus [illegible]

[illegible]

Dicitur in loco [illegible]

Ad Cap. Fin. de clericis peregrinis.

[illegible] defensioni peregrini [illegible] [illegible] [illegible]
[illegible] [illegible] aliena [illegible] [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] [illegible]
[illegible] Ordinarius [illegible] [illegible] [illegible]
[illegible] admittantur [illegible] [illegible]
[illegible] [illegible]

[illegible] [illegible] quid fieri deberet de [illegible] alienae [illegible] nominatus [illegible] [illegible] Honorius [illegible] [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] Volumen [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] probatur [illegible]
[illegible] bonae memoriae [illegible] [illegible]
[illegible] [illegible] cap. nullus [illegible] 62 [illegible] cap. [illegible]
[illegible] Clerici [illegible] cap. placuit [illegible] 72 [illegible] Clerici [illegible] alieni [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] Apostolorum [illegible] [illegible] Concilio Calcedonensi Generali [illegible] cap. 12 [illegible]
Concilio [illegible] [illegible] [illegible] Concilio Trid. [illegible] 23 [illegible]
[illegible] [illegible] [illegible] unica [illegible]
[illegible] [illegible] [illegible]
Andreas [illegible] [illegible]
Clericus peregrinus [illegible] [illegible]
[illegible] Canon [illegible] Suarez [illegible] sect. [illegible] n. 13 [illegible]
[illegible] [illegible] [illegible] 158 Nicolaus [illegible]
[illegible] [illegible] [illegible] Mendoça [illegible]
[illegible] [illegible] [illegible] 173 [illegible]
[illegible] Baronius [illegible] [illegible]
[illegible] alieni [illegible] 138 [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] [illegible]

De [illegible] authoritatibus [illegible] [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] [illegible]
[illegible] difficile [illegible] [illegible]
testimonia [illegible] Clerici alieni [illegible] Clericus alienus [illegible]
audeat [illegible] [illegible] 72 [illegible]
[illegible] [illegible] [illegible] Honorius [illegible]
[illegible] [illegible] [illegible]

Secunda [illegible] [illegible] illud [illegible]
[illegible] nec Sacra Celebrare [illegible] [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] debeat [illegible]

[illegible] recte [illegible] illud quod [illegible] [illegible] [illegible], nece[illegible]
apud [illegible] personarum, de quo [illegible] 13. [illegible], et alium quod [illegible] Domini [illegible] facilli[illegible]
[illegible] Apostoli ex nobilibus [illegible] Paulus [illegible] et Bartholomeus [illegible] [illegible] cuius [illegible] [illegible]
stat ex decis. [illegible] Veneratis [illegible] [illegible] in multis [illegible], et dignitatibus, [illegible] Canonici
[illegible] nulla [illegible] acceptio personarum habenda, [illegible] Cleones [illegible] docente, [illegible] recte [illegible] tamen videtur [illegible]
[illegible] peregrinos [illegible] [illegible] parrochijs [illegible] posse [illegible] [illegible] licentia [illegible]

n. 5. [illegible] dubitatio [illegible] [illegible]; nam certus [illegible] monasterijs aut cuius libet
alterius [illegible] [illegible] posse [illegible] [illegible] voluerit, [illegible] [illegible] [illegible] [illegible] decis.
32. [illegible] monasterium 33. 16 [illegible] docet [illegible] [illegible] Lambertinus [illegible] patronatu [illegible]
q. 10. n. 17. [illegible] morem [illegible], [illegible] quem voluerit [illegible] [illegible]
[illegible] 29. [illegible] patronatus. [illegible] [illegible] patronatus habeantur, [illegible]
[illegible] 32 extat [illegible] peregrinus [illegible] [illegible] Civitatis [illegible]

n. 6. [illegible] [illegible] Clericos
peregrinos [illegible] [illegible] licentia, cuius [illegible] [illegible]
[illegible] possimus [illegible] nulla [illegible], et maxime necessario animadvertendum [illegible] peregri[illegible]
[illegible] qui alterius [illegible] [illegible] [illegible] episcopatu, [illegible] Clerici [illegible]
qui adeo [illegible] iudicant [illegible] ad ordines, vel [illegible] [illegible] consulto admitti debeant, [illegible]
cap. 1. 71. [illegible] cap. [illegible] 3. [illegible] de parrochijs, [illegible] parrochianis, [illegible] [illegible] ordinati [illegible]
ordinatus [illegible] quinque [illegible] [illegible] [illegible] [illegible] valde [illegible] cap. 1. [illegible] de Cle[illegible]
peregrinis; nec [illegible] ad tante [illegible] adhibenda [illegible]; [illegible] [illegible] 2. hoc [illegible]
[illegible] celebrare [illegible] [illegible] cap. [illegible] fraternitati [illegible] Clericis peregrinis [illegible] docet Barbosa
[illegible] 2. [illegible] allegat. 21. [illegible] [illegible]

n. 7. [illegible] sciendum [illegible] peregrinos [illegible] Clericos [illegible] [illegible] posse [illegible] absque [illegible]
[illegible] licentias [illegible] habeant episcopales, Clerici [illegible] conferant, [illegible] Clerici[illegible]
[illegible] [illegible] [illegible] [illegible] [illegible], aut [illegible] [illegible]
[illegible] nomina episcopi et civitatis [illegible] [illegible] Canonicorum [illegible] celebratio [illegible]
cap. 41. [illegible] [illegible] Patres [illegible] Decretis [illegible] [illegible]
[illegible], [illegible] catholicos [illegible] [illegible]
[illegible]; [illegible] quae [illegible] probaret, [illegible] [illegible]
censerent, [illegible] Clerici absque [illegible] licentia, nec [illegible] absque [illegible] [illegible]
[illegible], nisi [illegible] [illegible] [illegible] cap. [illegible] 7. de [illegible]
docent Suarez 2. p. de relig. [illegible] Bonus [illegible] 1. [illegible] folio [illegible]
[illegible] Sanchez [illegible] decalogi 1. [illegible] n. 25. [illegible] [illegible]
[illegible], [illegible] Clericos ad [illegible] Clericos [illegible] ut ad ordines, [illegible]
exercenda admittantur; adest adducit [illegible] 29. de reformat. cap. 16. [illegible]

n. 8. Verum quatenus diximus Clericos [illegible] [illegible], nec abbe [illegible]
[illegible] unico de Clericis peregrinantibus, ex [illegible] colligitur [illegible] [illegible]
[illegible] Romanus [illegible] [illegible] licentia, [illegible] [illegible] omni[illegible]
[illegible] adhuc [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] Clerici Romani [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible]. [illegible] necessario [illegible] superioris licentia, [illegible]
[illegible] [illegible], et [illegible] superior doctrina [illegible] [illegible]
[illegible] auth. [illegible] [illegible] [illegible] habe[illegible]
[illegible], aut [illegible] [illegible], [illegible] [illegible]
de Clericis peregrinantibus, [illegible] Barbosa [illegible] allegat. 129. [illegible]
[illegible] [illegible] cap. [illegible] 15. [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] Decreti [illegible]

[illegible]

[illegible] suis, qd nimirum illo jure prudentia [illegible] vicarium [illegible] [illegible] decret. [illegible]
n.º 24. [illegible] [illegible]

n.º 9. Denique animadvertimus [illegible] Pontifices [illegible] [illegible] vestri [illegible] [illegible] [illegible] laudabilis [illegible] [illegible] tanquam [illegible] [illegible] beneficia ecclesiastica [illegible] impetrare queant [illegible] Sixti Pontificis motus proprius [illegible] [illegible] [illegible] capere audeat, [illegible] 16. n. 3. [illegible] ordinem in regno Franciae [illegible] [illegible] Benedictus [illegible] Raimundus [illegible] [illegible] Nicolaus Boerius decis. 32. n.º 18. Similiter apud Venetos, [illegible] [illegible] [illegible] Aragonia, Navarra [illegible] [illegible] [illegible] refert [illegible] [illegible] n.º 27. cap. 6. [illegible] [illegible] n.º 54. [illegible] [illegible] [illegible] [illegible]

n.º 10. [illegible] [illegible] [illegible] [illegible] Clericos [illegible] [illegible] [illegible] licentia [illegible] [illegible] [illegible] ordinandi [illegible] [illegible] [illegible] [illegible] [illegible] homicidia [illegible] [illegible] patriam [illegible] alienam [illegible] [illegible] [illegible] Licentias [illegible] [illegible] peregrinis [illegible] [illegible] [illegible] cultus divinus [illegible] [illegible] [illegible] peregrinus [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] docerent [illegible] ordinarij [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] cap. 288. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] parrochijs [illegible] licentiis [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Pandun [illegible] [illegible] [illegible] [illegible]

n.º 11. Nec [illegible] [illegible] [illegible] Clericus [illegible] [illegible] Clericus peregrinus [illegible] licentia [illegible] parrochia [illegible] [illegible] [illegible] facile [illegible] [illegible] [illegible] [illegible] [illegible] peregrinus [illegible] licentia [illegible] [illegible] Clericus [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Nec [illegible] [illegible] [illegible] [illegible] peregrinus [illegible] [illegible] licentia [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

n.° 12. Nec magis obstat [illegible] dicto [illegible] cons. 27. [illegible] Venet. [illegible] 97. [illegible] quibus dici [illegible] Deum [illegible] [illegible] sed [illegible] Veris [illegible] [illegible] Cajetan [illegible] [illegible] habere [illegible] personas qui [illegible] capaces admini[illegible] [illegible] [illegible] vel [illegible] plenum [illegible] [illegible] nominare; Nec [illegible] [illegible] Paulus, et Bartholomeus [illegible] [illegible] eligere [illegible] [illegible] [illegible] Card. [illegible] [illegible] tradit ita Cesar Lambertin. [illegible] [illegible]

n.° 13. Denique [illegible] posterior [illegible] [illegible] num. 82. [illegible] 33. 26. 97. [illegible] patronus nominare [illegible] Clericos qui [illegible] [illegible] personas, [illegible] peregrinos nominari [illegible] [illegible] quatenus [illegible] [illegible] [illegible] Clericis, [illegible] qui [illegible] [illegible] [illegible] [illegible] nominandi [illegible] [illegible] [illegible] non [illegible] [illegible] [illegible] Lambertin. [illegible] [illegible] n.° 6. [illegible]

n.° 14. [illegible] [illegible] decidendi [illegible] [illegible] Decretum [illegible] cap. 13. de jure patronatus [illegible] [illegible] aperte [illegible] [illegible] nominare [illegible] Clericos, quos voluerit, dummodo sit idoneus, [illegible] nominationes [illegible] [illegible] [illegible] absolute nullo adstante adminiculo [illegible] expectat. ecce [illegible] [illegible] [illegible] peregrinos [illegible] [illegible] [illegible] [illegible] litteris mandatis [illegible] [illegible] [illegible] [illegible]

[illegible] Solutus. [illegible] [illegible] 3. [illegible] significasti [illegible] [illegible] [illegible] [illegible] posse [illegible] Clericos exteros [illegible] [illegible] presentare, [illegible] [illegible] [illegible] [illegible] nihil [illegible] [illegible] [illegible] Verum hic [illegible] [illegible] [illegible] [illegible] [illegible] tantum [illegible] [illegible] erat [illegible] [illegible] [illegible] habet [illegible] patronatus [illegible] 26. 95. [illegible] qui [illegible] spirituales [illegible] capaces sunt [illegible] Sacrosancta, [illegible] [illegible] [illegible] spiritualibus [illegible] [illegible] presentare Clericos [illegible] patronatus habent; [illegible] [illegible] quanto magis [illegible] Capacissimus [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Hostiensis [illegible] quem sequuntur Cardinalis Zabarella [illegible] [illegible] [illegible] [illegible] [illegible] V. [illegible] [illegible] presentare quos voluerint. Verum [illegible] specialis [illegible] [illegible] patronus laicus, dummodo sit idoneus [illegible] [illegible] [illegible] [illegible] Joannes Andreas [illegible] [illegible] similis [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] solutiones.

n.° 15. Verum [illegible] [illegible] Videri [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] aliqua [illegible] ad Superiores [illegible] [illegible] [illegible] [illegible] ad laicos [illegible] [illegible] [illegible] patronatu [illegible] ad [illegible] Ecclesiasticos [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Cesar [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible]

cap. des [illegible], et multis aliis plen. [illegible] aliis 16. q. 7. [illegible] [illegible] habet [illegible] [illegible] patronus
[illegible] patronorum, et exclusionem [illegible], [illegible] [illegible] [illegible] adl. [illegible]. [illegible] habet [illegible]
tandem [illegible], [illegible] patroni [illegible] [illegible] habere [illegible] tanquam
Verus, et perfectus patronus [illegible] [illegible] tanquam [illegible] [illegible]
16. q. 7. [illegible] ex [illegible] [illegible] patroni [illegible] speciale [illegible]
[illegible] sine Culpa. [illegible] [illegible] quaestiones de qua [illegible] cap. [illegible] [illegible] qui [illegible]
[illegible] adeptus [illegible] [illegible] vel ex [illegible] legitime [illegible]
facere, [illegible] quam [illegible] habebat, [illegible] [illegible] [illegible]
[illegible] [illegible] intelligatur [illegible]
tato, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible], ubi [illegible]
[illegible] [illegible] habet [illegible] [illegible] Vulgata 16. q. 7. [illegible] quibus [illegible]
[illegible] [illegible] jurisdictioni est subiectus, merito [illegible] Alexander 3. [illegible]
[illegible] admittendos, nec interest, absolute [illegible] libet Clericis [illegible]
[illegible] vel [illegible] habeant [illegible], quibus [illegible] queant, quod [illegible]
[illegible], nisi [illegible] patronus [illegible] [illegible] decreto
quam [illegible] [illegible] [illegible] [illegible] [illegible] ad [illegible]
[illegible] refert, et refellit solutione hanc posteriorem [illegible] [illegible], [illegible] nulla, [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible].

n.° 16

[illegible] ex [illegible] [illegible] [illegible] [illegible] [illegible] ad [illegible] cap. [illegible] [illegible]

ubi proponens

Constantinopolitanus Patriarcha alicuius [illegible] Clericos [illegible], tanquam Veneto [illegible]
[illegible] nominare, nulla facta [illegible], quod [illegible] aliis [illegible] [illegible]
[illegible] posse [illegible] Veneti [illegible] [illegible] [illegible] [illegible]
[illegible] Patriarcha [illegible] [illegible] [illegible] [illegible]
Venetos [illegible] originem [illegible] [illegible] Patriarcha [illegible] [illegible], Clerici [illegible]
[illegible] ad [illegible] [illegible], [illegible] [illegible]. [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Clericos
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] rebus, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] admittendos, quo [illegible] [illegible] [illegible] [illegible]. [illegible]
[illegible] [illegible] Clericos [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] debebant [illegible]
erat, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] Graeci, Illirici, et aliis similes, [illegible] [illegible]
habere [illegible] [illegible] [illegible] [illegible] vel [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] cap. multis 49. 61. [illegible]
[illegible] eligat de [illegible] Clero, [illegible] ordinandus [illegible], quod [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] Chanones habeat, [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] cap. [illegible] [illegible] de elect. [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] alicuius beneficii, vel nominat [illegible]
[illegible] ad hoc munus exercendum [illegible] [illegible] [illegible] [illegible]
[illegible] necessario, quod [illegible] [illegible] [illegible] [illegible] [illegible]
sequens docent Abbas Panormitanus [illegible] cap. [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
19. [illegible] [illegible] [illegible] refert, [illegible] [illegible] ad [illegible] 56.

n.º 27. [illegible] de electione [illegible] intervenit [illegible] talis, nec minus [illegible]
[illegible] inter Canonicos [illegible] de elect. et electi pot., ex cuius [illegible]
[illegible] Saonensis [illegible] obstantibus, adversus [illegible] que in nulla [illegible] obiecta [illegible] quando [illegible]
[illegible] inter quos [illegible] erat [illegible] extraneus, [illegible]
[illegible] patet; nec ad [illegible] debere [illegible] transitus donec [illegible] Saonensis
[illegible] queritur, et dubitatur quid sit faciendum in hoc casu, et [illegible] Pontifex [illegible]
electioni [illegible], hanc electionem validam et firmam esse, dummodo sufficiens [illegible]
[illegible] nulla facta mentione alterius obiectionis, [illegible] quod [illegible] electus ut [illegible]
Si qua ex aliis causis [illegible] immediate [illegible] interposita, [illegible] electus [illegible]
[illegible] Cum electus [illegible] qui [illegible] erat [illegible] creare [illegible]
[illegible] electio [illegible] nec [illegible] Ecclesiae [illegible]
vere Clericos extraneos. Cuius difficultatis [illegible] Civitatis
[illegible] inter Canonicos [illegible] in nullo [illegible] quibus admissis [illegible]
[illegible] ut huic difficultati [illegible] satisfaciamus; supponimus [illegible] Civitatis
[illegible] vel locos [illegible] debere reprobari [illegible] extraneus [illegible] eligatur, cap. [illegible] 11. [illegible]
cap. [illegible] 63. [illegible] tract. [illegible] tract. de elect. [illegible] n.º 9. quemadmodum [illegible]
[illegible] Si electus [illegible] agatur, [illegible]
[illegible] maior pars [illegible] proprii electio [illegible]
contradicente habere [illegible] eligitur [illegible] maior [illegible] electus [illegible]
fuerit a maiori [illegible] Capituli [illegible] electio [illegible] alter
[illegible] fuit electus [illegible] ipso [illegible] nihil interesse [illegible] extraneus
[illegible] validus est, quoniam [illegible] remittere voluerit [illegible]
[illegible] admittendus. Vel [illegible] placuerit [illegible]
extraneus electus [illegible] formam [illegible] talis [illegible]
occupare [illegible] de altera [illegible] nullius [illegible] 17. 61 [illegible]

n.º 28. Adversus [illegible] ex [illegible] difficultatis [illegible] cap. [illegible] de [illegible]
elect. et electi pot. Ex cuius [illegible] nominatus [illegible]
[illegible] nominasse, alteros [illegible] extraneus [illegible]
[illegible] dubitatur de valore huius electionis, et respondit [illegible] cuius [illegible] electus [illegible]
[illegible] electionibus validam et firmam esse, [illegible] nominatus extraneus, [illegible] a duobus [illegible]
[illegible] electionem [illegible]
[illegible] facilius [illegible] cap. [illegible]
tribus [illegible] extraneus validus et firmus est, quoniam [illegible] electionem erant maior pars Capituli, [illegible]
[illegible] ut ille electus [illegible] maior pars [illegible]
[illegible] mandatis [illegible] Cumque [illegible] electores [illegible]
mandati forma, electionem extranei [illegible] valet, hoc [illegible] remissum est [illegible] maior [illegible]
[illegible] ut [illegible] electionem extranei [illegible] valere in hoc casu [illegible] Panormit. in d. cap. [illegible]
[illegible]

[illegible] in [illegible] de postulatis [illegible] 11. [illegible]
[illegible] Ordinationum. =

[illegible]

lib. 1. tit. 29.

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Scheda 18.

Ad tit. de officio et potestate iudicis delegati

[illegible] [illegible]

[illegible]

Ad Titulum De Off.o et Potestate Iudicis Delegati

Academica Expositio. =

Ad Rubricam. =

N.o 1. Ex nostris, et ex veteribus antecessoribus, multi valde insudarunt in investiganda nri tit. ad antecedentes continuatione, utique et plura [illegible] rem inspicere. Nos tamen hoc inutile iudicantes ad rubricam [illegible] accedimus, quoniam [illegible] Pontificiis [illegible] Paulo [illegible] subtiliter [illegible] animadvertenda sunt. =

N.o 2. Itaque in primis observamus hoc nomen Officii, [illegible]

[illegible]

N.o 3. [illegible]

[illegible]

N.o 4. [illegible]

[illegible]

N.o 5. [illegible]

Velasq. à Sart. resol. 5 nº 12. [illegible] significatus varijs modis [illegible] sumi. quandoque enim [illegible] iurisdictionale [illegible] 97 [illegible] aliquando iudicem [illegible] nº 29 [illegible] de homicidio [illegible] nº 6 [illegible] de rebus [illegible] in persona magistratus significat imperium [illegible] potestas [illegible] de [illegible] imperium seu iurisdictionem iudicis, in persona servi dominium [illegible] potestas [illegible] de [illegible] et in persona liberorum patriam [illegible] potestatem [illegible] patria potestate [illegible] alieni iuris [illegible] parricidijs docent [illegible] Navarro [illegible] Donellus nº 5 [illegible] potestatis. Interdum autem [illegible] significat potestatem [illegible] ut [illegible] potestatis [illegible] hanc [illegible] quam [illegible] rubrica [illegible] sit, nam [illegible] Pontifice in decretis [illegible] contentis agere intendis [illegible] iudicibus delegatis, quibus iurisdictio mandatur, et mandata iurisdictio imperium habeant [illegible] iurisdictioni [illegible] quibus [illegible] notat [illegible] de officio [illegible] cui mandata est iurisdictio [illegible] ex litteris [illegible] inscribitur [illegible] iudicis de [illegible] sub [illegible] potestate iurisdictionis [illegible] significatur [illegible] qui [illegible] docet Barbosa [illegible] nº 4 [illegible] =

nº 6

[illegible] quid [illegible] obstaret dicere [illegible] actiones [illegible] videri [illegible] officio, ac [illegible] probari ex [illegible] de [illegible] cum [illegible] alio [illegible] superfluum [illegible] quoniam [illegible] iurisdictionis [illegible] exercitium [illegible] iurisdictio [illegible] iudicis [illegible] de officio [illegible] ita tradunt [illegible] Joannes Andreas [illegible] nº 8. = [illegible] melius dici [illegible] officio [illegible] obligatus iudicis delegati ad iudicandum [illegible] tenetur [illegible] facere [illegible] potestate [illegible] gerendi, [illegible] delegato [illegible] de [illegible] inscribitur [illegible]

[illegible] Bolognetus [illegible] de officio [illegible] nº 41 [illegible] ubi affirmat [illegible] de [illegible] officio [illegible] de officio [illegible] iurisdictio [illegible] potestate [illegible] de officio [illegible] mandata [illegible] iurisdictio [illegible] Valet, quanto [illegible] potestate, [illegible] significat [illegible] Concordat [illegible] verbis [illegible] in Decretalibus [illegible] officio [illegible] de officio [illegible] Vicarij [illegible] de officio Legati [illegible] [illegible] potestas [illegible] generaliter [illegible] facultates [illegible] videri potest =

nº 8

Deinde [illegible] nomen iudicis [illegible] dicitur [illegible] generale nomen [illegible] iudicandi, et Cognoscendi authoritate [illegible] Magistratus [illegible] et alij [illegible] iurisdictionem habent [illegible] de iurisdictione omnium iudicum [illegible] de officio [illegible] iurisdictionem [illegible] iudices [illegible] iudicandi [illegible] iudices [illegible] de iurisdictione omnium iudicum [illegible] nº [illegible] iudicibus [illegible] de iurisdictione omnium iudicum [illegible] nº 2 de iurisdictione [illegible] nº 30 [illegible] imperio [illegible] iudicare [illegible] imperio [illegible] iudicare [illegible] formam [illegible] potestate [illegible] Magistratus [illegible] de [illegible] docet Barbosa [illegible] nº 4 =

nº 9

[illegible] et [illegible] iudicijs [illegible] de iurisdictione omnium iudicum [illegible] Donellus nº 17 [illegible] iudicum genera [illegible] nº 44 [illegible] iudicijs [illegible] nº 6 [illegible] Donellus [illegible] iudice [illegible] nº 2 [illegible] Donellus nº 17 [illegible] iudices [illegible]

Margin: [illegible] Neap.

De quibus tenendo erat in tit. de off. iudicis ordinarii. Posteriores vero sunt delegati de quibus in hoc tit., et haec divisio [illegible] alios [illegible] Molina de iustitia [illegible] disp. [illegible] et seqq. =

n.o 10

Igitur de singulis pauca dicenda [illegible] qui iurisdictionem habent [illegible] appellari iudices ordinarios, seu magistratus, [illegible] licet varias definitiones proponant Mattheus [illegible] L. de magistratibus [illegible] n. 34. [illegible] cap. 47. Conellus [illegible] Ubi [illegible] et [illegible] ut sit persona publica cui iurisdictionem [illegible] ordinariam nomen personae [illegible] de Statu hominum [illegible] magistratus publice [illegible] quia publica auctoritate [illegible] ad leg. Juliam [illegible] de verbor. [illegible] aut publica munera exercet L. honor 14. ff. de muneribus et honoribus [illegible] dare dicuntur in l. [illegible] §. ult. L. abo 32. [illegible] cap. maiores [illegible] 12. [illegible] Maritus 15. [illegible] ad leg. Juliam de adulteriis [illegible] Conellus [illegible] magistratus [illegible] auctoritatem [illegible] de [illegible] hoc [illegible] solet magistratus, seu [illegible] ordinarius designari [illegible] L. 2. [illegible] ff. de [illegible] de legatis [illegible] ff. de [illegible] §. quinimo [illegible] 10 ff. de iurisd. [illegible] iudici L. 1. §. [illegible] ff. de [illegible] L. ult. ff. de aqua publica [illegible] L. 2. ff. de re iudicata, L. 1. [illegible] legatum [illegible] principis [illegible] [illegible] de off. [illegible] [illegible] Conellus [illegible] tradunt [illegible] Barbosa [illegible] 12. §. 2. n. 25. [illegible] =

n.o 11.

Succedunt in ordine [illegible] iurisdictionem habent alieno [illegible] quidem dicuntur iudices delegati, [illegible] mandata iurisdictio [illegible] magistratus vel alii [illegible] vel [illegible] superesse [illegible] mandare, et [illegible] dare mittere L. more §. 1. solet 66. ff. de iurisd. omn. iudic. [illegible] delegare inter [illegible] vices suas [illegible] L. delegatum [illegible] de novationibus L. 1. §. [illegible] Pariadorus [illegible] rerum quotidianarum [illegible] cap. finali §. 2. limit. 6. n.o 49. [illegible] pro mandare iurisd. L. [illegible] 34. §. [illegible] de recept. arbitris L. 2. [illegible] de damno infecto L. [illegible] §. [illegible] ff. de [illegible] tutoris [illegible] [illegible] Clementinas, [illegible] mandare et delegare iurisd. [illegible] synonima [illegible] termini [illegible] in hac [illegible] L. [illegible] delegatus [illegible] iurisdictio [illegible] de off. [illegible] tradunt post [illegible] mandare [illegible] Barbosa [illegible] 12. §. 1. n.o 141. [illegible] de iudiciis Augustinus Barbosa [illegible] n.o 19, [illegible] alii [illegible] n.o 4. =

n.o 12

Quo supposito [illegible] iudicis delegati [illegible] definitio proponenda venit, et licet varie [illegible] tradunt [illegible] 15. [illegible] n.o 11. [illegible] n.o 2 [illegible] Aug. Barbosa [illegible] n.o 21. nobis tamen melior [illegible] ut sit persona cui sine magistratu, officio, [illegible] aut nulla [illegible] iurisdictio mandata [illegible] dicto persona [illegible] delegatus [illegible] officii [illegible] [illegible] iudices ordinarii, quibus si a Principe [illegible] delegati fiunt cap. ad abolendam 9. §. ult. de haereticis cap. [illegible] 4. [illegible] canonicos de [illegible] [illegible] ad Decretales [illegible] 57 et [illegible] n.o 34. = Praeterea [illegible] iurisdictio [illegible] delegati [illegible] iurisd. [illegible] iurisdictionem [illegible] [illegible] res iudicata [illegible] 99. ff. de [illegible] iudicis, [illegible] [illegible] Conelli n.o 27. [illegible] mandatae, [illegible] magistratum [illegible] mandat, [illegible] Principis [illegible] n.o 2. de iurisd. [illegible] =

n.o 13.

[illegible] notum [illegible] mandatae iurisdictio, [illegible] iudices [illegible] dicuntur, [illegible] genere, alterumque vice [illegible] solet 47. ff. de iurisd. omn. iudic. §. 3. [illegible] fiscale L. [illegible] 13 [illegible] [illegible] decreto [illegible]

in qua Episcop. aut Provinciae in utraque vetis Provinciae Vices obtineat [illegible] de off. [illegible] licet Procur. sit tam talis provinciam regere dicitur l. 1. ff. de tutoribus et Curatoribus datis ab his, velut procurator Caesaris scilicet regulariter constitutus in iis inter privatos et privatos iurisdicere potest, l. nec quidquam 9. ff. de off. Procons. l. 1. et 5. C. ubi causae fiscales l. 2. C. si adversus [illegible] intendo tamen nec pridem provinciae gubernacul. [illegible] ubi causae fiscales l. sicensuras. §. 1. ff. de appellationibus l. 2. C. de [illegible] l. 1. C. de pedaneis iudicibus [illegible] Cujacius lib. 19 observat. c. 13. Robertus lib. 1. animadversionum cap. 4. Brissonius lib. 3. selectarum cap. 8. qui [illegible] vicarii [illegible] prosequuntur. =

nº 44.

Secundo infertur generalis episcopi vicarium habere ordinariam iurisdictionem [illegible] legatus ut docet [illegible] de off. Vicarii [illegible] generaliter in c. Romana de appellatio [illegible] in lib. 6. [illegible] Vicarios foraneos in eadem [illegible] principalis de rescriptis, et eleganter tradit [illegible] de off. [illegible] allegat [illegible] 54 [illegible] ubi quinquaginta et duos authores tamen [illegible] praedictis sententiis [illegible] refert. = Cum praeterea [illegible] ordinarius habet [illegible] de off. ordinarii [illegible] Vicarius in [illegible] Romana [illegible] de appellationibus [illegible] igitur Vicarius generalis [illegible] habere [illegible] debet diverso [illegible] l. [illegible] ff. de Usucapionibus, [illegible] ordinaria [illegible] de off. Vicarii [illegible] ordinaria [illegible] tradit Barbosa [illegible] nº 31. [illegible] quadragesimum 57 [illegible] plene [illegible] ad [illegible] appellationes [illegible] Vicarii foranei alicuius oppidi, vel castri [illegible] appellatio ad [illegible] Vicarium generalem tamquam superiorem admittitur, [illegible] =

Digne lo un moro

nº 45.

Denique ex superioribus, omissis pluribus utriusque iuris testimoniis [illegible] [illegible] posse [illegible] ad [illegible] Academiae [illegible] Costituciones 6ª, 22ª et 35ª [illegible] Martinus V [illegible] Scholasticus [illegible] ordinarius [illegible] scholarium; [illegible] iurisdictio [illegible] feratur, ut [illegible] scholasticus [illegible] ita docent Barbosa lib. 5. [illegible] 12. nº 8. [illegible] 129 [illegible] ordinarii [illegible] iurisdictio [illegible] personis ordinariam intelligatur, [illegible] Thomas [illegible] lib. 2. [illegible] 40. nº 14. Suarez lib. 6. de Legibus c. 5. nº 1. [illegible] Romanae [illegible] Secularis [illegible] 4. §. 1 [illegible] 30 [illegible] Molina [illegible] Barbosa [illegible] §. 1. [illegible] ff. de [illegible] =

nº 46.

Cum sermo oriatur de [illegible] Scholastico [illegible] decreverunt [illegible] Conciliorum [illegible] Salmantina ab anno 1200 Academiam [illegible] quidem [illegible] Pontifices, et Reges [illegible] liberales artes, [illegible] Academiae [illegible] Universitates [illegible] professores quos semper [illegible] fidei Catholicae doctrina [illegible] percoluit, et docuit. [illegible] principalis [illegible] Academia [illegible] ut [illegible] 18. [illegible] Sedem Apostolicam subiicitur; habet tribunal [illegible] ordinariam [illegible] l. [illegible] 49 ff. de off. Procons. [illegible] exceptis [illegible] et scholasticis [illegible] Ordinarii [illegible] Universitatem [illegible] tenentur [illegible] Vicem Pontificis [illegible] Cancellarius Romanus, ut [illegible] 22. =

nº 47.

Ex quibus [illegible] ordinaria [illegible]

[illegible] tradidit [illegible] Bobadilla lib. 2º politicae c. 18. n.º 204. Verum [illegible] magis probabit [illegible] Joannes de Balboa in allegat. pro hac Universitate et Scholastico [illegible] anno 1622 [illegible] quia [illegible] ecclesiastica Scholastici nostri [illegible] personis sibi subditis [illegible] habet [illegible] = deinde [illegible] uti [illegible] Censuras profert [illegible] nisi in [illegible] tanquam ecclesiasticus procederet. = Praeterea ab eo appellatio [illegible] Curias Regias sed ad Sedem Apostolicam [illegible] Laicus regiam jurisdictionem exercens [illegible] appellationibus lib. [illegible] recopilationis, Curiae Regiae [illegible] tradit [illegible] tract. [illegible] n.º [illegible] = [illegible] quia Scholastici [illegible] personis ecclesiasticis [illegible] immunitate Ecclesiastica [illegible] [illegible] ceterorum ecclesiasticorum [illegible] Panormitano in cap. inter Corinthia de immunitate Ecclesiarum n.º [illegible] [illegible] gerit Navarrus in manuali cap. [illegible] n. 11. = Denique quia jurisdictio [illegible] ecclesiastica annexa quasi [illegible] sequella ecclesiastica sit, [illegible] ex [illegible] traditis à Narbona in l. 20 glossa 22 [illegible] n.º 25. [illegible] tiones à quorum argumentis [illegible] expedire videatur Barbosa ubi [illegible] in proveniencia sua aliquas rationes expendit quibus satisfacit Balboa ubi [illegible] Narbona [illegible] de simili jurisdictione inquisitorum quoad laicos familiares. =

n.º 18.

[illegible] siquidem in hac [illegible] judicii [illegible] quod licet Scholasticus [illegible] à [illegible] data [illegible] tanquam Magistratus Secularis, [illegible] sibi delata [illegible] defendere [illegible] ecclesiastica [illegible] jurisdictionis ecclesiasticae ordinariae quam illi [illegible] principaliter [illegible] adinstar ecclesiastici [illegible] ut Censuras proferat [illegible] ad Sedem Apostolicam [illegible] violentiis regia tribunalia [illegible] colligitur ex [illegible] 22 Martii [illegible] Scholasticus [illegible] jurisdictione regia [illegible] judices [illegible] Laicos [illegible] reclamaverint [illegible] Regii [illegible] judices [illegible] sententiam [illegible] persevera[illegible] Balboa [illegible] =

n.º 19.

[illegible] olim utrum Scholasticus [illegible] dignitas Cancellarii [illegible] universitatis [illegible] dignitas Scholastrii in [illegible] cathedrali [illegible] episcopus Salmantinus quod licet [illegible] esset exemptus à sua jurisdictione [illegible] Scholastrii [illegible] Loci [illegible] intelligatur exemptus [illegible] alterius rei, vel loci, cap. [illegible] Capella [illegible] de privilegiis [illegible] cap. 11. [illegible] Scholasticus pronunciavit Rota Coram Seraphino decis. 595 n.º 11. [illegible] maturius [illegible] eadem Rota [illegible] Junii anno [illegible] 1591. Coram [illegible] Serap. ubi [illegible] exemptum [illegible] à jurisdictione episcopali, [illegible] Innocentii Octavi, Julii [illegible] Leonis decimi, Clementis [illegible] simpliciter, et absolute [illegible] qualitatibus exemptis [illegible] = Nec obstat [illegible] cap. [illegible] Capella, [illegible] diversas [illegible] utrumque casum [illegible] exemptio data Canonicis [illegible] Burgensis [illegible] tanquam Canonicos [illegible] parochiales obtinentes, ut [illegible] exemptio [illegible] restricta ad Scholasticos [illegible] Universitatis [illegible] Scholasticus [illegible] habeat. [illegible] cap. [illegible] Capella Canonici [illegible] obtinebant parochiales [illegible] [illegible] Scholasticus [illegible] Scholasticus [illegible] reservatur Sedi Apostolicae [illegible] universitati [illegible] 37. [illegible] hodie [illegible] Hispaniarum [illegible] =

n.º 20.

Denique [illegible] Scholasticus [illegible] judicandi [illegible] exempli [illegible] Primo [illegible] Clericis [illegible] aliis [illegible] cap. [illegible] Clerici [illegible] 480 de [illegible] Scholasticus [illegible] Clericis [illegible] [illegible] responsa [illegible] = [illegible] Trid. sess. 24 [illegible] cap. 6. [illegible] irregularitatibus [illegible] occultis provenientibus, itaque Scholasticus [illegible] Universitatis [illegible] = [illegible] quia licet [illegible] de causis matrimonialibus [illegible] cognoscere [illegible] accedentibus [illegible] Trid. sess. 24 [illegible] cap. 10, [illegible] Scholasticus [illegible] cognoscere [illegible] [illegible] nec in decernendis [illegible] litteris declaratoriis [illegible] coram Seraphino decis. 585. et 595. [illegible] Trid. sess. 24. [illegible] cap. [illegible] Ordinariis [illegible] facultas [illegible] Scholasticus [illegible] Emanuel Rodriguez [illegible] Barbosa [illegible] allegat. [illegible] Thomas Sanchez lib. [illegible] dis. [illegible] 4. [illegible] n.º 9. [illegible] = [illegible] jurisdictio Scholastici [illegible] Sede [illegible] vacat [illegible] licet. =

= [illegible] de hac rubrica dicta sufficiant. =

Ad textum in c. 1. de off. et pot. iudic. = delegati solemnis explanatio.

n. 1

Dubitant scriptores, et iuste, de quo iudice noster textus loquatur, variaque circa hoc investigando proposuere. [illegible] de Dubrio, Augustinus Beroius, et alii ex antiquioribus ad nostrum textum repetentes aiunt textum procedere in iudice ordinario. ad quod probandum sequentia adducunt. 1º quod huius inscriptio [illegible] Londoniensi, ergo [illegible] ordinarius [illegible] cap. 1. de off. iudic. ordinarii, [illegible]. Facit [illegible] Alexander [illegible] semper [illegible] Londoniensi, ut constat ex eius littera et integra [illegible] ab Antonio Augustino in 2ª collect. Decretalium ad huius capituli [illegible] [illegible]. Adducunt denique [illegible] ordinario [illegible] debet intelligi. = Postmodum [illegible], Mandosius, et Barbatia [illegible] [illegible] de [illegible] intelligendum delegato [illegible] ordinario [illegible]. = Denique [illegible] Ioannes Andreas et Felinus [illegible] procedat in iudice ordinario [illegible] [illegible] et ille mandatis [illegible]. =

n. 2

Nos vero [illegible] et aliis [illegible] omissis, [illegible] dicamus nostrum textum loqui de iudice delegato. Quod ex sequentibus manifeste convincitur. 1º [illegible] semper [illegible] adaptanda est ad [illegible] Imperator [illegible] Ordinandi [illegible] Bartolum, [illegible] ff. de novi operis nuntiat. [illegible] 2º quia [illegible] [illegible] ordinariis, [illegible] mandatis [illegible] ff. de iurisd. omn. iudic. = Denique facit quia si de iudice delegato [illegible] [illegible] Panormitanum, Immolensem, Hostiensem, [illegible] Menochius de arbitrariis [illegible] 74. n. 38. =

n. 3

Nec in [illegible] sequuntur fundamenta quae persuadere videntur [illegible] ordinario loqui, nam licet huius inscriptio [illegible] Londoniensi, [illegible] [illegible] ordinariorum [illegible] delegatis [illegible] ordinario. Demum ad delegatum [illegible] [illegible] Communi [illegible] partibus [illegible] administrat, [illegible] coercere [illegible] [illegible] delegatis [illegible] [illegible] ff. [illegible] ordinarii, [illegible] elegantius tradit Menochius [illegible] Cancellarii [illegible] [illegible] Concilio Trid. sess. 7. cap. 5. [illegible] ordinario [illegible] delegatus [illegible] ordinario ut faciat [illegible] [illegible] ordinarii [illegible] [illegible] iudicis ordinarii [illegible]. = [illegible]

n. 4

Hic [illegible] quod delegatus potest [illegible] coercere [illegible] [illegible] impedientes, et turbantes [illegible] cap. 4. cap. 5. cap. [illegible] 11. [illegible] Litteris 29. [illegible] de off. et pot. iudic. deleg., [illegible] [illegible] Menochius de arbitrariis [illegible] 88. n. 3. [illegible] Farinacius in praxi criminali [illegible] n. 202 ff. de iurisdict. [illegible] [illegible] Barbosa [illegible] =

n. 5

[illegible] continuata [illegible] ex sequentibus [illegible] iudicis delegati [illegible] ordinarii iurisdictioni [illegible] [illegible] [illegible] 11. 9. [illegible] [illegible]

cap. [illegible] dubitur [illegible] cap. [illegible] qui [illegible] inter alios eleganter tradunt Ludovicus Gomecius in cap. [illegible] de re[illegible] cum [illegible] n.o 66. Maranta de Ordine judiciorum 4.a p. dist. 5. n.o 29: [illegible] nominati [illegible] erant in delegat[illegible] nec in [illegible] apostolico, [illegible] ceterum [illegible] dignoscitur, [illegible] delegat[illegible] [illegible] procedere [illegible] [illegible] fecerunt tam [illegible] [illegible] nullius erit momenti, nec [illegible] dictos [illegible] obstringet. =

n.o 6.

[illegible] difficultas [illegible] decis[illegible] [illegible], quoniam appellatione pedanei judicis delegatus continetur [illegible] C. de pedaneis judicibus, [illegible] qui [illegible] [illegible] vocatur [illegible] pedaneus judex [illegible] [illegible] ubicumque [illegible] loco magistratibus, et consequenter delegatus qui censentur de minimis judicibus [illegible] C. de pedaneis judicibus [illegible] [illegible] maioribus magistratibus, [illegible] [illegible] respondisse [illegible] quatenus ait judices delegatos [illegible] habere jurisdictionem adversus [illegible] litigantes [illegible] omnes, et quoscumque alios [illegible] [illegible] habuerint. =

n.o [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] delegatus [illegible] [illegible] quandoque [illegible] [illegible] [illegible] cap. [illegible] 100, 21. [illegible] cap. [illegible] 24. [illegible] [illegible] de obligationibus [illegible] [illegible] Tiberius Decianus [illegible] [illegible] cap. [illegible] [illegible] [illegible] [illegible] [illegible] 74. [illegible] [illegible] =

n.o 8.

Denique [illegible] [illegible] [illegible] [illegible] delegat[illegible] [illegible] procedere adversus [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 49 [illegible] [illegible] =

n.o 9.

[illegible] difficultatibus minime [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 287. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] =

n.o 10.

Deinde animadvertimus illa [illegible] minis ac terroribus, [illegible] minis aut terroribus [illegible] [illegible] [illegible] [illegible] [illegible] =

n.o 11.

[illegible] [illegible] illa [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 27 [illegible] 28 [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] =

[Margin note:] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

n.º 12

Hinc inquirendum superest, an hujusmodi Jus, et authoritatem habeat quando hic observandus est, quatenus obtineret Jus divinum, aut naturale, et non debent leges aut Canones si aliquid aliud obtineant in Custodiendis, sancitis statutis [illegible] Canonum, quae leges dicti, ut antiqui docent ind.º cap.º 1. 27 Apostolicis de dignitatibus et in l. 1. ff. si Certum petatur. inde est quod in cap. de libellis affirmabat Cuiuslibet Canon dictus lege divina munitus est perferenda decisioni Summi Pont. qui etiam docent in cap. placuit 36. q. 1.º quam sequitur Panormitanus in cap. qualiter el 2.º de accusationibus Columna ... Veritas est potius standum legi divinae Cuiuslibet Sancti, ut adverbit [illegible] in cap. ne [illegible] constitutionibus. Hinc descendit non esse allegari ad decisionem causarum authoritatem gravium Authorum, ut Colligitur ex [illegible] ubi Citatur authoritas Hipocratis, et in l. ut tantum de verbis divinis et in cap. forus de V. S. ubi authoritas Virgilij, et in l. Nocere 36. ff. De solutionibus ubi Citatur Aristotelis, denique saepe allegabant alios Authores ut constat ex l. 1. ff. si Certum petatur, l. si soror a genero ff. soluto matrimonio [illegible] 27 [illegible] et aliis Consulendis. denique quando libere talis, Cum maiori eorum plena fides [illegible] vitat, Veluti si liber sit Jurisconsultorum, Poetarum, medicorum, et similium, ut [illegible] in cap. [illegible] de elect. et in cap. inter dilectos de fide instrumentorum et post eam Lucerardus in Locis Legalibus ubi citantur authores alij, qui habent authoritatem Leges condendi, loco authoritatis [illegible] babilis, ut docet [illegible] in l. 1.ª C. de legibus, et in [illegible] de postul. Praelatorum [illegible] et Lucerardus [illegible].

n.º 13

Denique praemittimus postremo illa ... [illegible] ab interpretibus receptis solent interpretari [illegible] debere de excommunicatione et suspensione, quam etiam [illegible] Censura Ecclesiastica, ut probat in cap. praeterea de V. S. et docet [illegible] sequuntur Panormitanus et Hostiensis [illegible] hic accepta tantum Verissima [illegible] et alij antiqui ... in cap. [illegible] de dignitatibus ... [illegible] tamen procedere [illegible] ...

[illegible]

n.º 14

[illegible] ... quare Sede vacante laborant, et [illegible] Interpretes [illegible] ... de aliena [illegible] ...

[illegible]

n.º 15

... authoritate Divi Pauli in [illegible] ...

[illegible]

... quibus allegantur [illegible] Joannes de [illegible] ...

Unde [illegible] ...

[illegible] ff. ac iurisd. om. iudic. cap. [illegible] 5. c. significasti 7. cap. prudentiam 11 § fin. hoc tit. namque vulturnum videtur velle omnia ad illud unum pecc. ex philosopho lib. 5 metaphisicorum cap. 5. [illegible] Orabon. ff. de [illegible] l. Cadrem [illegible] 56 l. ad legat. et ff. de procuratoribus [illegible] coercere impedientes necesse [illegible] mandat. [illegible] extenditur. = Ceterum [illegible] sufficienter [illegible] nam ex [illegible] potestas [illegible] impedientes coercitione [illegible] fieri possit, delegatus [illegible] haberet [illegible] impedientes [illegible], ut infra videbimus. = Nec magis placet aliorum Abbatis Panormitani intellectus [illegible] in cap. significasti 7 [illegible] quatenus [illegible] ideo delegatus [illegible] impedientes posse punire quia [illegible] representat cap. sane 2 hoc tit. cap. [illegible] de off. legati, et [illegible] cap. Cum [illegible] 17 cap. [illegible] 9. q. 3. [illegible] nam delegato [illegible] quemadmodum [illegible] et representet [illegible] persona hoc tantum locum habet in [illegible] ad quam [illegible] debet extendi [illegible] ut [illegible] diximus. =

n. 17

[illegible]

n. 18

[illegible]

n. 19

[illegible]

n. 20

[illegible]

[illegible] quantum ad [illegible] latius interpretari et extendi [illegible] quae comprehenduntur sub verbis rescripti [illegible] seu lato sumpto vocabulo, [illegible] quantum ad [illegible] ceteras sunt stricte interpretanda, ut in cap. [illegible] de rescript. et cap. [illegible] de foro competenti [illegible]

[illegible] jurisdictio delegati [illegible] nisi [illegible] exerceat [illegible] rescripti [illegible] concedentis [illegible] de litibus [illegible] commiserunt, ut [illegible] decidendas [illegible] itaque ordinarius [illegible] procedatur. docent post antiquiores Navarrus in cap. [illegible] de rescriptis [illegible] n.° 7. Menochius de arbitrariis casu 74 n.° 56. [illegible] =

n.° 21.

Deinde non obstat [illegible] difficultas [illegible] adducta qua dicebamus judices delegatos [illegible] examinis [illegible] punire quoniq. [illegible] dicimus [illegible] ad non [illegible] delegatis a Papa, vel Principe [illegible] punire impedientes [illegible] judices inferiores, in quare [illegible] negativam defendunt [illegible] Speculator [illegible] judice delegato [illegible] n.° 6. [illegible] =

[illegible] judices delegatos inferiores [illegible] impedientes [illegible] Panormitanum et Decius [illegible] n.° 5. [illegible] Menochius de arbitrariis casu 4[illegible] n.° 4 [illegible] fundamentis probatur. 1.° quia delegatus [illegible] ipse judex ordinarius [illegible] impedientes punire [illegible] = 2.° quoniam inter [illegible] delegatus a delegato [illegible] inter delegatos inferiores quod attinet ad [illegible] nulla versatur [illegible] rationalis [illegible] delegatus a delegato [illegible] jurisdictionem [illegible] delegati a Principe extenditur [illegible] impedientes [illegible] delegati debet extendi [illegible] =

n.° 22.

Qua opinione ut veriori retenta [illegible] adducta [illegible] 3. [illegible] Deximat, nam [illegible] in Urbe Colonia in Provinciis [illegible] de Paris [illegible] solitos fuisse judices [illegible] dare, ut [illegible] judices, [illegible] Litigantibus dare [illegible] de re judicata [illegible] cap. 53. [illegible] Miscellaneum cap. 8. quinquidem judices [illegible] debant, veluti nos [illegible] pedaneos [illegible] judicio [illegible] procedit [illegible] delegato, qui [illegible] habeat [illegible] more maiorum [illegible] impedientes [illegible] coercere. = [illegible] facultas dandi judices hodie restricta [illegible] de pedaneis judicibus, ubi tamen permittitur judices dare [illegible] quo Praesides impediti fuerint [illegible] occupationibus, vel negotiorum [illegible] =

n.° 23.

Nec obstat [illegible] pluribus solutionibus, [illegible] [illegible] § 5. [illegible] [illegible] judices [illegible] recurrere [illegible] judices [illegible] n.° 6. n.° 4. [illegible] cap. 8 [illegible]

n.° 24.

[illegible] obstat [illegible] solent [illegible] peccare [illegible] [illegible] Decius [illegible] [illegible] 46. n.° 80. [illegible] n.° 3416 [illegible] Menochius [illegible] 2. de arbitrariis casu 351 n.° 17. = Nec [illegible] obstat [illegible] [illegible] =

No. 19

Denique [illegible] et posterior [illegible] crebro [illegible] potentior [illegible] procedere [illegible] ... Accedit [illegible] generalior, et favorabilior [illegible] ... Nec [illegible] interest dicere [illegible] ... quoniam [illegible] illud procedere [illegible] ... [illegible]

No. 20.

Ex [illegible] veniunt nunc [illegible] aliqua difficultas [illegible] ... judicem delegatum [illegible] ... Joannes Andreas, et Hostiensis [illegible] de rebus eccl. [illegible] ... [illegible] ... hoc fuit [illegible] ...

No. 27.

Nec adversus hanc [illegible] ... delegatus [illegible] ... Hostiensis [illegible] ... Innocentius [illegible] ... Joannes de [illegible] ... [illegible]

No. 28.

[illegible] Innocentius [illegible] ... judicis delegati [illegible] ... Archiepiscopus [illegible] ... [illegible]

intaliva innocentes, [illegible] adversarius [illegible] grandes [illegible] vocatos [illegible] delegati [illegible], [illegible] tantum
taxat puniri [illegible] delegati adversus impedientes [illegible] procedere [illegible] eidem [illegible] [illegible], [illegible]
obtinet quod potestates [illegible] [illegible] judicis delegati [illegible], cujusque exercitium [illegible]. [illegible]
[illegible] per [illegible] delegatum [illegible] potestas in delegato [illegible] [illegible], [illegible] [illegible]
aut [illegible] delictum [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Joannes de [illegible]
[illegible] [illegible] [illegible] =

3.° Superius dictis omnino [illegible] [illegible]

[illegible]
exemptionibus [illegible] [illegible] [illegible] rescriptis [illegible] Civitatis Sagientis, et quosdam alios [illegible]
[illegible] convenire [illegible] [illegible] [illegible], nec judices delegatos [illegible] rescripto nominatos [illegible] corpore [illegible].
[illegible] dictis [illegible] [illegible] judices delegatos [illegible] [illegible] [illegible] [illegible] aliis [illegible] [illegible]
indicantur = [illegible] adeo [illegible] ut [illegible] D. [illegible] [illegible] [illegible] [illegible] [illegible]
decisio [illegible], ad quod [illegible] [illegible] appellatio [illegible] [illegible] [illegible] judices [illegible]
cap. [illegible] cap. unico de [illegible] cap. [illegible] [illegible]
[illegible] tam [illegible] et [illegible], [illegible] = [illegible] [illegible] cap. [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] cap. unico [illegible]
[illegible] [illegible] [illegible] [illegible] in materia [illegible] appellatio [illegible]
[illegible] tam [illegible], [illegible] in materia [illegible] in materia [illegible] [illegible]
et [illegible] [illegible] [illegible] [illegible] ex d. cap. [illegible] [illegible] ubi mandat
[illegible] [illegible] [illegible] et [illegible] licet [illegible] [illegible]
[illegible] = [illegible] [illegible] [illegible] [illegible] cap. [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] clausula generalis [illegible] [illegible]
Civitatis [illegible] nominatis, [illegible] [illegible] clausula [illegible]
[illegible] [illegible] [illegible] judices delegati [illegible]
procedere, [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] de [illegible] cap. 195 [illegible]

[illegible] ult.

Denique [illegible] [illegible] [illegible] [illegible]

cap. [illegible] in causis judicialibus [illegible] judicibus ecclesiasticis [illegible] [illegible]
quandocumque [illegible] vel personalis [illegible] [illegible] [illegible]
[illegible] intercedendo et [illegible] Censuras Ecclesiasticas, [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] Censuram Ecclesiasticam [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] ecclesiasticis,
[illegible] [illegible] delegato [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
ubi [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] vel [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] Menochius de arbitrariis cap. [illegible] n.° 24. = [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] judices ecclesiasticos [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] ecclesiastica procedatur [illegible]
[illegible] [illegible] in loco [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] Florentius [illegible] cap. [illegible] n.° 94 [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible]

[illegible]

[illegible]

Solemnis Scholastica relectio ad textum in cap. si pro debilitate 3. iuncto cap. super q. 27. §. porro, et §. Sive cap. pastoralis 28. in ultimis que alijs iuribus de off. et potestat. Judicis Delegati.

Ex prescripto Academie nostre, nobilissimi Auditores, lustrandum, et hoc tempore illustrandum Pontificij iuris vespertinis assignatur nobile, et difficile Alexandri 3.ii Decretum relatum in d. cap. si pro debilitate 3. de off. et pot. iudicis delegati, in quo, nec non in alijs eiusdem tituli iuribus utilis, et valde practicabilis de subdelegatione causarum a delegatis Principum Superiorem non recognoscentium facta, exagitatur materia, quam rem ut perfecte exponamus de more nostro in primis eius hipotesim fingamus. ita se habet. fuit lis super aliqua causa, puta beneficiali inter aliquos mota ad cuius decisionem iudex delegatus fuit a Rom.o Pont.e nominatus, desiderabat iudex iste vices suas alij omittere ideo predicte cause cognitionem, et discusionem in alterum subdelegare; querebatur utrum hoc posset facere, de quo dubio ora. Pontifex Alex.er 3.us respondit liberum esse etiam partibus invitis predicto iudici delegato, personis discretis, et idoneis vices suas omitere, si debilitas, vel necesitas, aut quelibet alia gravis causa impedimentum prestiterit, quominus predictus iudex a sede Apostolica nominatus predicte cause decisioni interesse possit, non quod semper sit iustam causam requiri ad talem subdelegationem faciendam, sed potius quod quando illa adest, possit compellere subdelegatum ad acceptandum, ut animadvertit Panormitanus hic n.o 1.o cum sequentibus, et nos latius inferius explanavimus; verum tamen Pontifex concludit subdelegatum non admitti in causa, que causa sui natura, et conditione sit, ut absque eius presentia nequeat omnino determinari, qualis est inquisitio excessuum, in ultimis que alia, quas postea prosequemur examinando quas causas delegari nequeant =

[Margin: ...alijs iure fuerint, sicut n.o 1.o ...ues sint, et causa sit ne... ...s delegatus, ut ex parte ...i intercessio iure collige.]

n.o 2.

Ex hac facti specie generalis et communis, quam ab interpretibus deduci solet, ita se habet. Delegatus Pontificis, aut Principis Superiorem non recognoscentis recte potest subdelegare causas, quas omnino sine ipso terminari potest, nec non subdelegatum compellere ad illam acceptandum, dummodo gravis sit causa. probat hic textus ex cap. super q. 27. cap. pastoralis 28. cap. quoniam 43. cap. finali hoc tit. de off. et pot. iudicis delegati, cap. cum causa 62. de appellationibus, cap. si duo 8. cap. quamvis 6. cap. cum 22. cap. si a subdelegato 44. hoc tit. lib. 6. cap. statuto 11. §. in ultimis de rescriptis, eodem lib. clem. a 1.a hoc tit. clem. 1.a §. 1. de hereticis; de iure civili firmatur predicta assertio ex textu in l. et quia ff. de iurisd. om. iudicum, l. unica §. finali C. qui pro sua iurisd. l. a iudice 5. C. de iudicijs, de iure Regio ex textu in l. 19. tit. 4. p. 3. illustrant ultra citatos canonistas iter ad unum, et ad predicta iura repetentes, Cochineus tit. 12. obseruationum cap. 42. et 47. Morla in emporio iuris tit. 2. q. 15. per totum, Quintana Duenas tit. 2. de iurisdictione cap. finali n.o 1. et sequentibus, Flaminius tit. 4. de resignat. benef. q. 3. n.o 26. Basilius Segoviensis tit. 5. de matrim. c. 26, et 27. per totum Barbosa de potest. Ep. allegat. 4. n.o 11. cum sequentibus, Donellus tit. 17. comentar. cap. 8. et 22. ubi Gualdus lit. M. Ant.s Faber in rationale ad textum in d. l. et quia de iurisd. om. iudicum, plures que alij utriusque iuris scriptores, quos ut ad alia deveniamus libenter omitimus, de more suo congessit, ob videndi, predictus Aug.s Barbosa in collect. ad iura, textum et ad textum in d. cap. super q. 27. hoc tit. n.o 1. cum sequentibus. =

[Margin: ...ui nisi delegatus a Pri... ...causa valeat alij delegare.]

n.o 3.

Verum licet hic traditio iuris affirmata verissima sit, in sequentibus difficultatibus obscurari videtur. Prima petitur ex eo; nam delegatus non posse subdelegare et ratio, et auctoritas respon. extat in l. 1. §. qui mandatam, et in l. finali ff. de officio eius cui mandata est iurisdictio, l. more maiorum 5. et l. et quia b. ff. de iurisd. om. iudicum, l. solet 16. cum l. seq. ff. eodem tit. l. 1. et l. 17. tit. 4. p. 3. iunctis quas tradunt generaliter per eos et Molina de iust. et iur. tracta. 5. disp. 15. Thomas Sanchez tit. 3. de matrim. disp. 31. Maranta in praxi aurea 4. p. d. 5. a n. 5. Petrus Barbosa in l. cum Praetor 12. §. 1. 4. 5. ff. de iudicijs, cuius rei ratio hec, quia ut inferius latius dicemus, delegatus utitur iurisdictione aliena, et tantum illius usum exercet cum mandatum exequitur, quod personale iudicati ... qui mandatam, et ab ... habitatione, sed hec ratio generalis tempus tua ratio convenitur in delegato Pontificis, nec non Principis non recognoscentis superiorem cum ille iurisdictionis pro pietate non habeat, quo eadem iuris dispositio omni delegato erit observanda, argumento textus in l. a Titio 108. ff. de v. o. et in l. illud 32. ff. ad l. Aquiliam, nec poterit transferre quod non habet per textum in l. nemo 55. ff. de R. I. accedit ... iure textus in ... videtur delegatus a Pape ad aliquam causam ... nominatum, recte per ... subdelegatum nominare qui de illa cognoscat, et illam decernat. ... formam mandati semper precise servanda est cap. cum dilecta 22. de rescriptis, ... cum vulgaris ... mandati, et in illo tantum ... quod delegatus de causa cognoscat, sive ... sive a ... hoc est Principe, aut Papa nominatus. =

n.o 4.

Eo usque quatenus colligitur ex predictis ... textus, si pro debilitate ... per quamlibet aliam gravem causam, vel necesitate ... aliquam iustam causam requiri ad hoc ut delegatus Papa de quo ... possit causam predictam subdelegare, obstat sequens consideratio, nam certum est in delegato Pontificis, aut Principis non recognoscentis superiorem nullam ... ad hoc ut possit subdelegatum nominare, qui ... talis nominatus de causa possit cognoscere immo independenter quid tale facere posse, probant hoc textus in d. cap. super q. 27. et in cap. pastoralis hoc tit., cap. cum causa 62. de appellationibus; cap. ... extribus, cap. ..., cap. ... cui cumpluribus alijs hoc tit. tit. l. a iudice C. de iudicijs, l. unica §. fin. C. qui pro sua iurisdictione, iunctis que tradunt generaliter Abbas, Panormitanus, et Felinus ... 5. ... hanc ... et traditam ... in cap. pastoralis ... igitur ... certus ... Papa delegatus posse causam subdelegare, ... videtur, debilitas, necesitas, aut quamlibet alia

grauem cũ causa requirit ad talem Subdelegatus faciendam.

n.º 5.

Denique quatenus in nostro tũ illa proponitur Vbe, itat qd si restantiet, ...ferre debeant, ex quibus depromitur subdelegatus in dicere debere consulere delegatus, Casus locatus, quo res, de qua agitur ... sit momenti, obstare videtur hic consideratio; quia delegatus subdelegando in totus vices suas à se abdicat iurisdictio, quam antea habebat, et desinit esse iudex, cap. in ... et etsi totum omiserit, recusari ulterius, aut facta per ... ... nari nequibit, qd posset, si sibi de iurisdictione aliquid reseruasset, ... n.º 6. ... quos ... Praeses pract. q.ª cap.º 26. per totus, precipue Joannes de Valboa in cap.º ... speciali 61. de appellat. n.º 4. qui ... recusat ... pertractant, igitur subdelegatus cum ... delegatus consulere non debet, cum nullam habeat iurisdictionem. =

n.º 6.

Difficultates has ut dissoluamus, ut quae ... Pontifices ... tenet expedit explanetur, cuius decidendi ratio est assignanda. in qua re dedenda varia dicere utrimque ... Dicit l. Legatus ... ff. de off. ... putat Pontifices, aut Principis delegatus posse causa subdelegare, quia talis iurisdictio dependet à lege diuina, et aequiparatur ordinariis, quae ab ipso iure descendit, ut ostat ex l. 1. §. more 5. §. et quia 6. ... omnium iudicis, cap.º cap.º conquerente de off.º ordinarii, ... itaut sicut ordinarius pot vices suas committere ... iudice ... l. 1. §. ... mandatus, l. finali ff. de off. ... cui mandata est iurisd. ... cap.º ... appellat. Sic similiter delegatus Pontificis posset subdelegare, maxime quia ... sibi commissa maiorem iurisdictionem habet ordinarius, cap. sane 11. ... cap.º 2.º de off. legati, cap.º pastoralis, §. praeterea de off. ordinarii, l. ... 18. §. ... ff. de muneribus, docet ... Petr. ... cap. querente, ... Molina ... n. 11. ... Delegatus Pontificis ab ipso iurisdictionem capiat, ... propria, ... ideo ... subdelegari ... ut statim ...

n.º 7.

Affirmauit aliam rationem Guido Papa ... ostentat delegatus ... à delegato summi Pontificis ... quoniam intelligitur facta subdelegatio ... non nisi ... subdelegatus alteri subdelegauerit ... suas arg.ᵗ ... iudice ... de muneribus ... qui ... cesat qd ... electa industria persona, quoniam ... quantumuis ... gatus sit superioris alteri subdelegare nequit, arg.º ... l. inter artifices ff. de solutionibus, l. nemo est qui nesciat ... de duobus reis, l. ... §. si ab ... ff. de V. O. cap. finali, §. ... cap. ... 2. ... n.º 6. tunc autem ... persona electa intelligitur, qd ex ... omissionis ... patet aut ex ... aut ... veluti ... ... aut ... super quibus negotiis expediendis conscientiae ... toleramus, aut quando ... dicitur, confisi tua prudentia, ... mandamus, vel denique si ... exigat, veluti tu te cognoscas ... casibus ... quae alias ... Pontificis causa subdelegare ... industria electa ... Marant. ... 4.ª ... n.º 27. ... n.º 7. ... n.º 18. ... decis. ... Rotae apud Farinac. decis. 266. ... Gutierrez ... pract. q.ª cap. 47. n.º 194. At quamuis superior ratio ... quorundam ... intelligentiam ... conueniens, ut postea dicemus, ... nec demonstrat cur delegatus Papae aut Principis causa subdelegare possit, delegatus ... inferioris ... facere ... ideo quia ... est. =

n.º 8.

His rationibus, nonnullis ... dicendum putamus ... Subdelegandi delegato Pontificis, aut Principis competere, ... maiores ... quam ratio iuris ... introductum ... ordinem aliarum rerum, quae in ... Principes causa constituti extant ... permutat, l. bene à Zenone ... quadriennii ... probatur hic ratio ex ... cap.º pastoralis 28. ... à lege ... ex cap. finali, de delegato ... Principe ... ducitur ... Panormitanus, et ... n.º 4. ... antiquorum ... cap. 26. n.º 6. per totus, Petrus Barbosa ... n.º 394 cum sequentibus, ... privilegii ratio ... namque sicut Pontificis, aut Principis ... superioris ... maior est ... ordinaria ... iurisdictio, ita similiter illius delegatus aliis omnibus ... subdelegati, nec ... aliis debet ... ideo quia talis delegatus inter alia potest ... compellere ut munus subdelegatus ... suam authoritatem ... publicus est, l. ... 18. §. ... ff. de muneribus, et honoribus ... l. ult. C. de aduocatis diuersorum iudicum, licet ... arbitrio recipiendo, ... illud liberum esse debet, cum sit priuatus, l. ... §. ... ff. de receptis arbitris. = Nec obstat ... probatur ex ... cap.º pastoralis 11. ... qd Archiepiscopus ipsum ad rescribendum delegat huiusmodi compellere nequit ... de off. iudicis ordinarii, ex quibus ... probari ... cogi subdelegatum ad acceptandum nominatus, nam dicendus est ... Archiepiscopi ... subditus eius ... suffraganei ... cum nullus habeat iurisdictionem ... appellationis ... ad ... delegationis munus suscipiendum; qd ita esse ... Vbe ... cum in ... quibusdam articulis nullam habeat ... Metropolitana lege subiectus. =

n.º 9.

Ascendit hinc ... difficultas ... iurisdictio ... à delegato ... per delegari ... propria ... delegatum ... recurritur delegato Pontificis aut Principis ... superioris ... adductus ... ... utriusque iurisdictionis ... aduersarios adductus ... probat delegatus ... sibi ... delegare, ... industria ... nominatis, ... nullus ... obstant ... iurisdictionis ... subdelegato ... nec ... delegato, Atque ...

Deniq. nam specialiter, qui non à delegato Pontificis, aut Principis supra adducta adest, eo qd idem ius observetur, eadem adstante ratione, procedit, si qualis non obstet ratio, et nullius privilegii invenitur. Nec transfert plus iuris delegatus, ipse in subdelegatum, quam ipse habet, neq. certum est ex iure, alium iudicem constituere, et ex dignitate iuris huic à superiori nominato delegato concessum esse, aut posse, et [illegible] sibi [illegible] decernere posset. = Nec denique quidquam obstat, quod dicebamus V. delegatis ad similitudinem mandatarii, formam rescripti non debere excedere; neq. dicendum hoc certum esse, verum delegatus Pontificis in lateribus, subdelegat, si quidem potestas quid tale faciendi aut expressa in tali rescripto, aut tacite [illegible] [illegible], [illegible] at solvit hanc praeter Panormitanus [illegible] n. 6. Basilius [illegible] 5. n. 6. ad finem. =

nº 15.

Haec assertio utique et differentia inter delegatum à Pontifice, vel Principe nominatum, et inter à iudice inferiori deputatum evertì videtur: primo ex textu in cap. cum Bertholdus 18. [illegible] verum de re iudicata ex cuius non inelegantì specie aperte colligitur iudices delegatos absolute, et generaliter aliis utiliter posse iurisdictionem mandare, et tamen certum est in hoc tantum agi de iudicibus delegatis nominatis ab inferioribus. Igitur [illegible] distinctio non est. Solutio praedictae difficultatis sustineri nequit. = Huius textus difficultas adeo torquet interpretum ingenia, ut variis [illegible] accommodent expositiones. Abbas Panormitanus [illegible] cap. cum Bertholdus nº 22. existimat ideo delegatum de quo [illegible] valuisse, quod facta fuit à delegato Legati à latere Romani Pontificis quasi [illegible] hunc delegatum [illegible] delegandi habere, quem intellectum amplectitur [illegible] Felinus [illegible] cap. super eo [illegible]. §. [illegible] [illegible] [illegible] [illegible] eos [illegible] sequuntur [illegible] [illegible] n. 7. [illegible] Alexander [illegible] [illegible] Oroscius [illegible] [illegible] eodem [illegible] Gambara de potestate legati à latere [illegible] nº 430 [illegible] = Verum intellectus hic duplici ex capite rejicitur, 1º quia [illegible] non loquitur in legato à latere. 2º ex eo quoniam licet in illo ageretur delegato à latere, delegatio non admitteretur, nam certum in primis [illegible] de legatis legati à latere non posse subdelegare, hoc privilegium [illegible] delegandi ut diximus soli [illegible] Pontificis, aut Principis delegatis, tradunt praedicti negativam opinionem cum delegatis legati à latere [illegible] col. 2ª. [illegible] quos aliis ex antiquioribus, et tertio refert à Gambara [illegible] [illegible] Covarruvias [illegible] [illegible] cap. 10 [illegible], quidem affirmativis [illegible] fundamentis plene satisfaciunt.

nº 11.

Alii sentiunt ideo [illegible] cap. cum Bertholdus, potuisse delegatum legati subdelegare quoniam erat delegatus ad universitatem causarum, qui dicitur posse subdelegare unam et alteram causam [illegible] [illegible] cap. cum causa, [illegible] cap. super eo [illegible] §. [illegible] docet, et optime resolvit Covarruvias [illegible] [illegible] Var. cap. 10. nº finali [illegible] [illegible] haec doctrina [illegible] sit vera, qd iam examinabimus, in [illegible] [illegible] [illegible], [illegible] [illegible] [illegible] hic [illegible] [illegible]. Alii denique inter quos Pater Thomas Sanchez lib. 8. de matrimonio disp. 31. nº 10. dicunt in dicto cap. cum Bertholdus subdelegatam [illegible] fuisse, quia licet delegatus inferioris à Principe non possit subdelegare totam causam, potest [illegible] unum, aut alium articulum causae omittere, [illegible] [illegible] [illegible] examinato [illegible]. Solutio haec facile convincitur, [illegible] [illegible] causae articulum aliquem [illegible] [illegible] [illegible] cognitionis delegatus subdelegavit, ut manifeste colligitur ex [illegible] [illegible] Abbates [illegible] alios vices suas [illegible] subdelegat [illegible] [illegible] arbitri receperunt [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible], et ad Summum Pontificem fuit appellatum, deducitur delegatus [illegible] in tantum articulis [illegible] [illegible] causae, [illegible] ad delegandum [illegible] appellandi [illegible] [illegible] cap. super [illegible] §. [illegible] [illegible] [illegible] =

nº 12.

Omissis [illegible] solutionibus, aliisque pluribus, quas referunt Morla [illegible] [illegible] nº 44. Thomas Sanchez [illegible] n. 10. Anastasius Germonius lib. 2. animadversionum cap. 8. [illegible] Joannes [illegible] Baldus in dicto cap. cum Bertholdus, [illegible] dicendum est qd in [illegible] [illegible] tantum facti [illegible] proponitur [illegible] illa subdelegatio probatur, ne operimur [illegible] de illius subdelegationis meritis vel [illegible] litigantes [illegible] opposuerunt, [illegible] [illegible] de hoc disceptare [illegible] causa [illegible] delegati. Vel [illegible] haec solutio [illegible] placuerit, potest dici subdelegatum de quo [illegible] nullius [illegible] [illegible] [illegible] [illegible] esse delegati [illegible] inferiori facta, nec [illegible] doctrina impeditur ex eo [illegible] [illegible] decretali de [illegible] [illegible] fiat, [illegible] [illegible] ad Curiam Romanam causa est delata; [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Covarruvias [illegible] [illegible] Morla [illegible] [illegible] nº 4. [illegible] [illegible] [illegible] securam [illegible] [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] adducimus. =

nº 13.

[illegible] praedictam distinctionem obstare videtur textus in cap. super quaestionum 27. [illegible] [illegible]. hoc textu [illegible] delegatus [illegible], vel iudex quicunque tam cognitionis quam executionis ad aliquem certum articulum quempiam [illegible] [illegible] modo excedat, [illegible] licet appellari [illegible] [illegible], [illegible] [illegible] [illegible] quam facit [illegible] inter delegatos Principis, et delegatos inferiorum, [illegible] [illegible] certum [illegible] articulum subdelegare, [illegible] [illegible] [illegible] [illegible] [illegible] delegare tam Pontificis, aut Principis delegato [illegible]. = Huius textus difficultatem [illegible] [illegible] [illegible] [illegible] nullius [illegible] [illegible] delegatos inferioris posse certum [illegible] subdelegare [illegible] [illegible] [illegible] [illegible] cap. cum Bertholdus, [illegible] [illegible] [illegible] [illegible]. Verumque solutio [illegible] [illegible] [illegible] delegatus inferioris nec totam causam, nec [illegible] [illegible] [illegible] [illegible] [illegible] Fachineus [illegible] 1º controversiarum cap. 46. pluresque alios [illegible] [illegible] Barbosa [illegible] §. 1. nº 111. = [illegible] [illegible] [illegible] [illegible] [illegible] quicunque [illegible] [illegible] [illegible] Barbosa [illegible] 86. [illegible] [illegible] quicunque accepit iudice ordinario [illegible] delegato, [illegible] [illegible] [illegible] ordinarius [illegible] [illegible]. [illegible] hanc [illegible] [illegible] [illegible] generalibus [illegible] verba, [illegible] [illegible] ex quo colligitur [illegible] [illegible] iudice, [illegible] [illegible] delegato [illegible] [illegible]. =

nº 14.

[illegible] [illegible] [illegible], ut [illegible] difficultati fiat [illegible], [illegible] [illegible] inter articulos certos [illegible] in quibus nullam iurisdictionem desiderat, et inter articulos [illegible] iurisdictionales, Principes [illegible] delegato ita ut eos possint mandare, et in hoc casu procedit, accipiendumque est [illegible] [illegible] [illegible] posteriori [illegible] [illegible] [illegible] [illegible] iurisdictionem [illegible], [illegible] [illegible] [illegible] cap. super eo [illegible] qd si delegatus [illegible] [illegible] diverte [illegible] de delegato omittente [illegible] [illegible] Principis delegato [illegible], ideoque omissis illa verba quicunque [illegible] iudex, quibus [illegible] [illegible] [illegible] [illegible] ut significaret [illegible] [illegible] posse [illegible] cuicunque iudici [illegible] subdelegari

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Certum articulum iurisdictionalem, et ita in secundo casu. Ideoque cum in primo casu ille qui delegatus est executor [illegible] iudex sit, ab eo appellari nequit, l. ab executore §. C. de appellationibus et recipiendis, seu eorum appellationes non recipiuntur. Quod secus est in 2° casu, ubi cum subdelegatus sit iudex, recte ab eo appellatio interponitur. Qualis vero dicatur actus iurisdictionalis, et qualis non iurisdictionalis, explicat glossa 2. in d. [illegible] [illegible] qui tamen in de executore potius de Principis delegato agit, et ideo non mirum si subdelegare possit. Vel cum illa verba non tam cognitus, seu executus, [illegible] eidem [illegible] significent [illegible] iurisdictione, sed potius executivum, [illegible] de causa delegata quantum [illegible] ab inferiori nominatus permittunt [illegible] executores nominare, [illegible] loquimur de subdelegato cum iurisdictione, quod ille inferioribus delegari negamus. Tradunt praedictam distinctionem [illegible] Barbosa in d. §. 2. n° 120. Thomas Sanchez [illegible] §. 1. n° 10 [illegible]

n° 15.

3° denique in gratiam viri Covarruviae profitemur eidem distinctioni [illegible] [illegible] in l. legatus 12. ff. de officio proconsulis, et [illegible] in l. cum Praetor 12. §. 1. ff. de iudiciis: ex quibus iuribus aperte [illegible] legatum proconsulis posse dare iudicem, et [illegible] nominatum ab inferiori, et [illegible] habet propriam [illegible] mandatam iurisdictionem [illegible] l. legati 13. ff. de officio proconsulis, [illegible] recte dictum tamquam posse subdelegare nominatum a [illegible] Principe [illegible] superiorem non recognoscente. = Facile tamen huic difficultati fiet satis si dicamus [illegible] antiquorum solutione omissis in re proposita multum interesse inter mandare iurisdictionem, et dare iudicem, licet quod delegatus non permittatur iurisdictionem mandare [illegible] in d. l. more §. [illegible] debet denegari iudices absque iurisdictione dare ut dicebamus [illegible] in l. legatus, et in d. l. 12. §. 1. ff. de iudiciis qui in hoc casu debent intelligi. = Cuius distinctionis illa ratio est [illegible], [illegible] datione iudicis, iurisdictionis quam exercet effectus [illegible], l. 1. l. 3. [illegible] ff. de iurisdictione, [illegible] iurisdictio [illegible], sed solam notionem permittit iudici dato, l. a [illegible] Praetor. §. ff. de re iudicata, ubi enim iudices mandare possunt, licet iurisdictionem nequeat mandare, ita docent et distinguunt Zacharias tit. 12 [illegible]. Angelus [illegible] tit. 2. [illegible] cap. 8. Basilius [illegible] cap. 26. n° 17. Barbosa d. §. 1. n° 140. Donellus tit. 17. [illegible] cap. 23. ubi [illegible] qui interpretatur [illegible] difficilem in l. a iudice §. in primo C. de iudiciis. =

n° 16.

Rursus obstat 2a difficultas superius [illegible] [illegible] adducta, quae dicere [illegible] non est causa in delegato Pontificis aut Principis ad hoc ut possit causam sibi missam subdelegare [illegible] [illegible] probari videtur; nam cum [illegible] controversum sit, [illegible] in delegato requiri [illegible] ad subdelegandum [illegible] requirat, [illegible] [illegible] indicamus talem [illegible] [illegible] n° 4. probabimus. Nec tamen obstant illa [illegible] [illegible] probabilitatem sequentiam; nam duplici modo possunt intelligi: 1° dicendo [illegible] causam requiri ad validitatem subdelegationis, sed ad hoc ut [illegible] iusta, ad similitudinem matrimonii [illegible] [illegible] cap. 3. de [illegible] [illegible] [illegible] Trid. [illegible] 24 de matr. cap. 1. [illegible] quos tradunt Barbosa in d. §. 1. n° 396. Basilius tit. 5. de matrimonio cap. 27. n° 2. 2° [illegible] causam requiri quia delegata causa erat magni momenti, cuius subdelegatio sine causa non admittitur ut tradit Barbosa ubi n° 400 quod adverti [illegible] expendit pro hac interpretatione [illegible] [illegible] quales sint causae graves, et cum possint subdelegari a Pontificis, et Principis delegato statim dicemus. =

n° 17.

Nec magis obstat [illegible] in d. cap. pastoralis 28. hoc [illegible]. exigente necessitate, quibus causa [illegible] necessitas ad subdelegandum exigi videtur, quia causa [illegible] [illegible] referuntur [illegible] subdelegandi potestatis, sed ad subdelegandum personis sublimioribus, quas aliter delegatus cogeret suscipere hoc munus quam exigente necessitate, secundum [illegible] antiquiores in d. cap. pastoralis, tradit Petrus Barbosa ubi n° 401. Nec denique quidquam urgent verba [illegible] in cap. venerabili 37. §. porro hoc [illegible] porro idem Archiepiscopus corporis infirmitate gravatus commisit in huiusmodi negotio vices suas primo Abbati [illegible] Collegii videatur subdelegatus ex causa infirmitatis [illegible] facta, [illegible] tamquam [illegible] [illegible], sed quia ita acciderat, quae [illegible] possunt intelligi [illegible] [illegible] causa in delegato Pontificis aut Principis ad subdelegationem faciendam. =

n° 18.

Manet [illegible] Pontificis, aut Principis superiorem non recognoscentis delegatum [illegible] [illegible] aliquos [illegible] posse subdelegare, [illegible] ad [illegible] quas causas subdelegare queat [illegible] ex duabus sententiis [illegible] indicamus affirmativam, quae [illegible] tali delegato permittit subdelegare causas, sive sint meri, sive mixti imperii [illegible] tenent et defendunt [illegible] Bartolus, Baldus, et Paulus [illegible] in l. 1. C. qui pro iurisdictione [illegible] [illegible] finalem [illegible] 4. pluresque alii quos referunt Boerius decis. [illegible] n° [illegible] in l. 1. ff. de officio [illegible] cui mandata est iurisdictio n° 17. et 18. = Pro qua [illegible] sequentia faciunt fundamenta. 1° namque [illegible] Principis [illegible] subdelegare potest, [illegible] in l. a iudice §. C. de iudiciis [illegible] Princeps delegando causam videtur [illegible] [illegible] 27 [illegible] subdelegati [illegible] in l. [illegible] §. [illegible] 4. ff. [illegible] qui sive [illegible] meri, sive mixti imperii [illegible] Pontifex, aut Princeps [illegible] dare facultatem subdelegandi = 2° facit subrogatum natura, qui [illegible] loco, in quorum locum subrogantur [illegible], ut lite pendente nihil innovetur l. 2. §. [illegible] ff. [illegible] [illegible] l. unica §. 1. C. de [illegible] §. [illegible], [illegible] Pontifex, aut Princeps [illegible] causas meri, aut mixti imperii, ita similiter [illegible] delegatus [illegible] subrogatur. = [illegible] in cap. [illegible] 3. n° 4. ubi [illegible] delegatus Pontificis potuit [illegible] subdelegare causas [illegible] [illegible] mixti imperii ut tradit [illegible] [illegible] imperii [illegible] n° 29. ff. [illegible] iurisdictio. = Denique [illegible] in [illegible] [illegible] [illegible] [illegible] ubi [illegible] delegatus Principis [illegible] subdelegare [illegible] causas [illegible] [illegible], [illegible] [illegible] [illegible] potuit subdelegare [illegible] causas etiam meri imperii, [illegible]

[illegible] qui exigere [illegible]

[illegible] causis subdeleg. [illegible]

Vid.

n. 19.

Nec obstant tex. in l. nemo pot. 71 ff. de reg. jur. in l. Mea ff. de off. procons. ... qui probat causas meri imperii non posse delegari, ... in Pontifice, nec in Principe, nec in aliis delegato, sed in inferioribus iudicib. = 2° obstat dicere quod in causis meri aut mixti imperii electa est industria personae, ac proinde non potest delegatus has causas subdelegare arg. tex. in d. l. inter artifices ff. de solutionibus cum aliis supra adductis, quia dicendum est in predictis causis ... electam industriam personarum, cum princeps has ... plerumque ad petitionem partis ... ... taliter ... delegatoris ... videantur electi, ideoque has potest subdelegare supremus delegatus ... mixti imperii ... = Denique obstat dicere delegatum Principis comparari iudici ordinario, at ordinarius non potest delegare causas meri aut mixti imperii, ... de off. ... cui mandatur jurisdictio, ... potest, nam omissis ... solutionibus, quas tradit Bartolus ... et Bolognet. ibidem n. 137. ... dicitur, dicendum est delegatum Principis aut Pontificis comparari ... judici ordinario, ... subdelegat... quippe ille potest subdelegare, quia in illum fuit translata jurisdictio Pontificis, aut Principis, quae de sui natura est delegabilis ... in dubio ... censetur electa industria personae delegati, ut probat ... ... hoc ... at hic ratio cessat in iudice ordinario, quem constituit Princeps, et ideo ... iudicem in tota provincia, ... causas meri, aut mixti imperii ille subdelegare nequit. =

n. 20.

Hoc quomodo de Pontifice, aut Principe delegato diximus, ... posse subdelegare cessant in conservatoribus Apostolicis, hi enim non delegati sunt regulariter subdelegare prohibentur ... hoc ... cap. ult. ... de off. ... tradunt late et eleganter antiquiores ... et ... Sorum ... de ... Moneta de conservatoribus cap. 7. n. 58. Molina tradit. ... disp. 29. n. 1. Emanuel Rodriguez ... 3 regular. q. ... art. 10. Petrus ... 47 sintagmatis cap. 22. n. 27. = ... ratio, quam tamen ab interpretibus varie soleat assignari, ... pervenit ... Ordinarii, quippe ... ... potestas restringitur tanto ... ordinarii ... jurisdictionem, ... delegata est. =

n. 21.

Ab hac generali regula duplex excipitur casus. Primus est ut conservatores possint mandare aliis citationes, ... cap. ... vices suas aliis committere ... deputationis ... duplex ... 1. ut ... fiat ... deputationis, ut statuit ... et tradit Moneta ... 7. n. 6. = Secunda ... ut conservatores ... illis licentia ... vices ... personis ... munus ... cap. ult. ... de ... delegatorum ... cap. statuta 12. §. in nullo ... de ... 6. ... 12. ... Salmantino scholastico judice conservatore, ... speciali Clementis ... casus ... subdelegare, ut ex Bulla praedicti Pontificis ... fol. 104. ... literis ... mandat ... quatenus ... aut unus ... alii, ... extra loca ... deputatos ... = ... tradidimus ... de off. et pot. iudicis delegati lib. 6. ubi ... ad ... jurisdictio proponitur. =

n. 22.

His articulis jam veniunt ... quae ... decisionibus perturbare videntur. ... difficile videtur Bonifacii ... in cap. ut ... 12. de haereticis lib. 6. ubi probatur inquisitoribus, qui delegati sunt summi Pontificis, cap. ... 10. cap. per hoc 17. ... de haereticis lib. 6. ... subdelegare posse Clement. 1. §. ... jure singulari indultum, ut possint mandare citationes et ... quo effici videtur inquisitores ... non posse, ... ut videatur necessarium indultum ad talem subdelegationem ... Pontificis, aut Principis delegatos posse subdelegare. = Ab hac difficultate facile liberabimur si, omissa solutione ... in d. Clem. 1. ... tradit ... ab ... dicamus ... quae ... diximus. Dicere itaque inquisitores non potuisse subdelegare causas haereses, ... libri Sexti decretalium, quo id ... industria ... electa videbatur, ideoque ... ademptam fuerit subdelegandi potestas ex ... §. 1. ... cap. ... 12. ... lib. 6. ... in Clement. ... 1. ... indultum versari videatur, quasi in ... industria ... subdelegandi ... ... ut superiori ... diximus, ... fuit ... indultum. Hodie ... valde frequens est, ... industria personae electa esse desinit, ... inquisitores ... causas subdelegare, ut ... Clem. 1. ... de haereticis tradit ... ... ubi ... =

n. 23.

Secundo obstare videtur ... cap. finali §. ult. ... de off. ... Delegati ubi ... ministerium exequendum mittitur, veluti praedicare crucem, ... vel absolvere aliquos, ... regularibus, vel ... poenitentias ... vices suas committere, nisi sit sedis Apostolicae legatus ... difficilis quatenus ... casibus ... delegati ... mittere vices ... subdelegatio ... Principis, aut Pontificis delegato ... speciale ... decreto, ... nominatim ... colligi videtur. Facile ab hac difficultate liberatur, ... §. finali ... negotiis ... sit ... mittitur ... vices suas ... delegare ...

ut ex accedenti §. colligitur, tunc illud posset facere etiam si partes consentiant, quod nudi ministerii committitur, nec obstat praedictus casus signatus qui adhuc ut dicatur in genere committi subdelegatus, nam certum est eos exempli causa fuisse adductos, siquidem quo nudo tantum ministerio aliquem, recepto, nec illi, nec quilibet alio delegari queunt ex ea quae tradit [illegible] antiquiores ad d. §. finalis repetentes Barbosa de off. et pot. episc. 2 p. allegat. 35. n.° 27. cum seqq. =

n.° 24.

2.° hanc solutionem obstare videtur textus in cap. finali de off. iudicis Ordinarii, ubi statuitur iudicem Ordinarium, qui ex officio suo recte potest excommunicatos absolvere, qui pro violenta manuum iniectione in excommunicationem inciderent etiam posse tales absolutiones aliis committere; igitur non recte dictum est quod tale subdelegari non posse. Huic difficultati respondendum est dicendo textum in cap. finali intelligendum esse quod absolutio, vel quid simile committitur iudici Ordinario ex officio suo, et non ex delegatione, tunc quod illud potest alteri delegare, at in nostro § ult. agitur de eo cui ut delegato nudum ministerium committitur, non iurisdictio. Vel cum privilegio a Romano Pontifice, aut Principe delegatis ut possint subdelegare in his tantum procedat, quibus iurisdictio commissa est, d. l. a iudice C. de iudiciis et cap. pastoralis in hoc versic. merito ad [illegible] extendi quibus iurisdictio, non nudum tantum ministerium committitur, quare cum in d. §. statuitur delegatum [illegible] nudi ministerii est commissum, et ideo qui ex officio suo recte concessit in textu in cap. nuper de sent. excommunicationis [illegible] egere Gutierrez lib. 1 canonic. q. 3. c. 5. n.° 1.° tradunt praedictam solutionem, et ipse ad dictam [illegible] Cerola in praxi episcopali 1 p. verbo sententiarum §. 1. n.° 3. Navarrus in manuali cap. 27. n.° 45. Cott. lib. 3. Var. resolut. cap. 20. n.° 5. Thomas Sanchez lib. de matrimonio disp. 40 n.° 27. Menoquius lib. 1. de arbitrariis q. 54. n.° 43. cum seqq. C. D. Barbosa in d. l. a iudice 12. §. 1. n.° 5 de iudiciis, plures que alii, quos refert et sequitur idem Barbosa de pot. episc. d. allegat. 35. n.° 28. =

n.° 25.

Nec adhuc obstat quod in d. cap. finali de off. iudicis Ordinarii agitur de absolutione ab excommunicatione incursa ex manu violenta in clericos illatos, quae summo Pontifici reservata est, cap. si quis suadente 29. 17. q. 4. ut tradunt Thomas Sanchez lib. 9. de matrimonio disp. 32. n.° 4. Suarez de censuris disp. 22. sect. 1. per tot. plures que alii quos refert Cenedo in collect. ad Decret. collat. 24. et quando episcopus, quamvis iudex ordinarius sit a praedicta censura absolvit, tanquam delegatus facere, ac proinde videbatur eius tales potestas subdelegari non posse ex textu in d. l. 1.° in princ. ff. de off. eius cui mandata est iurisdictio cum vulgatis. = Sed supradicta interpretatione admissa, respondetur dicendo quod quando lex aliquibus casibus episcopis concedit potestatem absolvendi ab excommunicatione reservata, adhuc episcopi iurisdictionem suam ordinariam, non delegatam exercent; ratio est, nam in illo casu episcopis concessum sit absolvere ab omni censura reservata d. cap. nuper de sent. excommunicationis, sublata reservatione impedimento, ad suam ordinariam potestatem revertuntur, atque ita non novam delegatam iurisdictionem, sed antiquam, et ordinariam ex officio exercere dicuntur ut constat ex d. § finali de off. iudicis ordinarii et probatur argumento textus in cap. et aliquibus 4. §. sive de rescriptis [illegible] illud facit; nam si iudici ordinario aliqua causa committatur, quae alias ad eum expectabat, in procedendo tanquam delegatus, tanquam ordinarius, ut plurimis aliis tradit Bobadilla in sua politica lib. 2.° cap. 21. ex n.° 26 cum seqq. =

n.° 26.

3.° superiorem nostram decisionem opponitur textus difficilis in l. cum qui 13. in fine de iurisdictione omnium iudicum, ubi scribitur cum qui iubet iudicare, oportere magistratum esse, igitur ille cui mandata est iurisdictio, etiamsi iudex delegatus eius magistratus non sit, subdelegare non poterit, nec potestatem iudicis dandi habebit, quamvis a summo Pontifice, vel Principe non recognoscente superiorem sit nominatus, adversus quod in nostro sentiendum est. = Difficultas haec commovere Donellus lib. 17. comment. cap. 23. Cobeanus in d. l. cum qui, in ultimis velat ad Cuiacium ibidem, ut quae lam dissolvant varios adducunt solutiones, missis omnibus magis placet dicere in d. l. cum qui [illegible] 1 Ulpianum mentis, ut potestatem dandi iudicis solis magistratibus concessa excluderet eos, quibus mandata est iurisdictio, propterea ut doceret cum qui eius magistratus esset iudices delegatus nominavit, postea que ex magistratu esse desiit non posse eum quem dedit cogere ut iudicet seu iubere iudicare, quoniam tunc cum iubet magistratus non est, et ut eum qui iubet magistratus esse oportet, aut saltem mandatum iurisdictionis habere quam ipse non habuit, idque Ulpianus perexploratum posuit, ne cogeretur, quod confirmat ex lege d. in princ. 1.° huius legis apponitur, vel magistratus iubere iudicare, Lot. sive dare iudicem in eum diem quo privatus futurus sit, non posse, tradunt hanc solutionem praeceptores nostri D. D. Ferdinandus [illegible] lib. 6. Petrus Fabrus in l. nemo ff. de reg. iur. fol. 319. [illegible] et Alonso [illegible]. =

n.° 27.

4.° denique obiici etiam nostrae decisioni textus in auth. at si C. de iudiciis, ubi cavetur Principis delegatos debere per se ipsos examinare, nec posse sibi subdelegatos [illegible] committere, ergo non recte dictum est Pontificis, aut Principis delegatos subdelegare posse. Huius textus intelligendi causa convertitur apud interpretes utrum quemadmodum utrumque casus delegatus superioris potest subdelegare, ita etiam possint id facere reservata sibi [illegible] velut subdelegare, quare non certum est in iure eos facere posse, quod patet ex textu cap. super quaestionum 27. in princ. et in § verum in §. ult. de off. et pot. iud. deleg. et in cap. pastoralis 28. eodem, et in clem. 1. eiusdem tituli, et patet ex eo, nam clausula quae in iure disponi [illegible] quod eis licet utique quod in nostro [illegible] cum hic delegatus utriusque posse subdelegare, merito et reservatio huius [illegible] gatio [illegible] illi concedenda est. = Quo supposito ut praedictas difficultates dissolvant, inter utrumque discrimen statuendum censuit iuris canonici et civilis, ita ut in civili respectu delegatus non possit litis partes subdelegare, in iure canonico recte possit, et ius civile id statuat ne ex eo mandato redderet minus instructus de causa, et utrumque celeriter lis expediretur, in iure canonico alia ratione moveatur, ut scilicet libentius exerceatur iudicialis authoritas, id est ut iudex liberam habeat authoritatem cognoscendi per se vel mandandi, ut ita litigatoris laboribus et expensis occurratur. hanc differentiam tenere videtur textus in d. cap. super quaestionum

super q. 27. 17. intentionis hic noster, et Pontifex in extravaganti 1. vers. Licet de haereticis, eamque tradiderunt [illegible] in d. auth. ad haec [illegible] delegatis, et q. [illegible] cap. super q. [illegible] alii, et ubi primus Alex. [illegible] in rubr. de off. [illegible] cui mandata est iurisdictio n. 6. Maranta in praxi 4. p. d. [illegible] 5. n. 42 =

n. 28.

Verum quamvis haec dispositio a nostris Pontificibus insinuari videatur, et a praedictis authoribus tradatur, [illegible], nec [illegible] etiam aliis solutionibus quas tradunt Donellus d. lib. 17. comment. cap. 22, et ibi Osualdus litt. N. Barbosa in d. l. cum pr[a]etor 12. §. 1. n. 341. Verum iudicamus Imperatorem Iustinianum in d. auth. ad haec [illegible] loqui de iudicibus delegatis, sed de consiliariis, et assessoribus ministrorum, quibus [illegible] aliter causa exitus ab administrationibus [illegible] formant [illegible] designatos. Praevenit hoc Barbosa ubi sup. n. 396. Nec huic solutioni obstat quod proponitur in vers. delegatis d. auth. ad haec, nam debet intelligi ita, ut quemadmodum administratores [illegible] causas [illegible] cognoscere debent, qui possunt causas suis consiliariis, et assessoribus mandare, ita similiter delegati [illegible] consiliariis expedire negotia possint, itaque dicamus ideo administratoribus, et delegatis [illegible] adeptam cognoscendi [illegible] [illegible], quae consiliarii, et assessores privati sint, et nullus gerant magistratus [illegible] sine magistratu iudicare [illegible] nimis sit, ut magistratus iudicantes adsint, et consilium suggerant, [illegible], ut ipsi iudicent, [illegible] de assessoribus et consiliariis [illegible] statuitur [illegible] ad alios iudices [illegible] ducendos, ita hoc penaliter tradere [illegible] mutuati sumus. =

Denique [illegible] posterior [illegible] n. 5. [illegible] adducta, qua dicebamus

n. 29.

[illegible] Pontificiis solere loco subdelegando [illegible] videtur vices suas iudicem subdelegatus neutiquam debere iudicare [illegible] [illegible] nullis solutionibus [illegible] et a se abdicare iurisdictionem, quam antea habebat adversus quod [illegible] opponitur, nam omissis illis solutionibus quas tradunt Panormit. [illegible] Decius [illegible] Criminaldus n. 8. dicendum [illegible] intelligendum esse de instructione [illegible], [illegible] necessitate, ita ut in illo instruatur iudex delegatus, ut sciat qualiter debeat uti potestate subdelegandi; vel quamvis delegatus [illegible] instructionem, actus erit validus, quia modus a lege [illegible] instructio [illegible] mandati, [illegible] de [illegible] quos tradit [illegible] ad similitudinem iudicis qui quamvis instruatur, ut [illegible] pronunciet [illegible], et si aliqui [illegible], valet, et tenet, cum inter 13. cap. quod ad [illegible] 15. [illegible] iudicata [illegible] si sententia [illegible], cap. [illegible] 48. [illegible] [illegible] hoc tamen [illegible] debet intelligi, nam [illegible] appellationes praedicta sententia per [illegible] iudici [illegible] illam [illegible] debeant [illegible], quam [illegible], ut praediximus [illegible] delegans expiret [illegible] quod [illegible] quemadmodum iudices [illegible] praedicta [illegible] diximus. =

n. 30.

[illegible] Chronide, [illegible] perfecta [illegible] explicatione nunc procedendum erat in nullis casibus, in quibus delegati inferioris interdum possunt subdelegare. Verum tamen ut ad alia pergamus, hos omittimus iudicantes [illegible] Bassilius d. lib. 5. de [illegible] cap. 26. n. 24. Fachineus lib. 1. Controv. cap. 45. Molinam de iust. [illegible] tract. 5. disp. [illegible] n. 4. Thomas Sanchez lib. 3. de matrim. disp. 31. n. 8. pluresque alios, quos ipsi referunt et dicentes inter quae [illegible] quolibet subdelegat. personam discretam, et honestam debere nominari, id est, qui aliqua dignitate fruatur [illegible] Staius [illegible] Sess. 24. de reformat. cap. 20. illud dubitatur, ut si subdelegatio sit generalis sufficiat [illegible] tempore [illegible] fuit [illegible], licet [illegible] Cessaverit, [illegible] subdelegatio sit realis, tamen sufficiat praedictas personas [illegible] dignitate decoratas fuisse, nec [illegible] tempus impetrati rescripti, vel praesentationis, nam cum [illegible] dignitati causa sit delegata, et dignitas eadem sit [illegible], atque in alia persona, [illegible] videtur in rescripto [illegible] qui praedicta dignitate fruitur, adeo ut si post [illegible] ad aliam dignitatem fuerit promotus [illegible] successor [illegible] debeat, et haec [illegible] delegatio personalis morte delegati extinguatur [illegible] [illegible] mortuo ad successorem [illegible] arg. [illegible] cap. [illegible] de off. [illegible] iudicis delegat. [illegible] pluribus quae [illegible] tradit Thomas Sanchez lib. 8. de [illegible] disp. 27. n. 22. ubi [illegible] plures alios [illegible] [illegible] =

Et hic [illegible] de huius [illegible] Omnipotenti laude, Virginisque Matris gloriae, [illegible] Sanctorum, nec [illegible] subiicimus [illegible] termine.

Sequitur utilis repetitio ad textum in cap. de causis 4. hoc eod. tit. de off. et pot. Judicis Delegati.

n.° 1. — Alteram non minus subtilem et elegantem Pontificis Maximi Alexandri 3. decisionem explicandam agredimur in qua cum de prorogat. iuris dictionis iudicum delegatorum agatur, integre tam in civilibus quam in criminalibus causis remittere la diligencia, et cura, qua potuerimus, persequemur. Hoc enim quod a prorogare fere semper ex facult. a delegante [illegible] dependet, quemadmodum ad eum expectat omissione modum imponere, et la[illegible] ad certas personas restringere cap. Rodulphus 37. de rescriptis, et ad certas causas, cap. 1.° de sequestrat. poss. et fructuum, cap. ex [illegible] de rest. spoliat. et ad remeer tam cap. cum olim 32. hoc eod. tit. de off. et pot. iudicis delegati, et ad certum locum cap. Suas. de off. [illegible] capit. Statutum 11. §. in nullo de rescriptis in 6. et ad certum tempus [illegible] de causis, qui infra certum terminum decidendae committuntur. Cuius iurisdictionis natura, ac vis considerata [illegible] Alexander [illegible] utrum [illegible] quando aliqua causa decidenda mittitur infra certum tempus puta duos menses, si hic terminus [illegible] elapsus, causa [illegible] terminata fuerit, iudex a dicto deputatus possit ulterius de ea cognoscere. Cui dubio respondit Pontifex statuens mandatum Apostolicum expirare praedicto termino transacto, nisi de communi partium consensu [illegible] prorogetur. =

n.° 2. — Ex hoc responso [illegible] quod communiter ad interpret. [illegible] deducunt [illegible] ita se habet, si causa mittitur intra certum tempus definienda, eo lapso, nisi partes antea prorogaverint expirat delegatio, [illegible] probatur hoc ex textu in cap. praeallegato cap. cum olim 32. hoc tit., cap. Statuty 11. §. in nullo, [illegible] expressum accedere earundem assensus, de rescriptis in 6. probatur tum in l. secunda, §. si [illegible] iudex ff. de [illegible] l. de quare 74. §. 1.° ff. [illegible] l. de [illegible] proferre §. 3. ff. de receptis arbitris, probatur [illegible] cap. 1.° de rest. spoliatorum, l. 1.° ff. de servitutibus, l. 1.° [illegible] dict. [illegible] iudicum, cum plurimis aliis iuribus, quibus probatur iuris solemnitates per semper [illegible] exornant, et [illegible] hanc [illegible] ad [illegible] competentes, et ad [illegible] l. 2. §. si iudex ff. [illegible] [illegible] l. 1. C. de iurisdict. omn. iudicum, et [illegible] ibidem ita testante Alexandro [illegible] n.° 52. [illegible] Bassilius [illegible] lib. 5. de matrimonio cap. 25. per tot. [illegible] de iurisdictione omn. iudicum [illegible] n. 21. per totam, Didacus de Sahagun in repetitione [illegible] cum seqq. [illegible] Maranta in praxi [illegible] Petrus Gregorius lib. 47. Syntagmatis cap. 22. n.° 10. [illegible] lib. 1. [illegible] cap. 10. [illegible] in [illegible] quos [illegible] refert, et sequitur [illegible] =

n.° 3. — [illegible] decisio [illegible] veritatibus [illegible] gravissimis difficultatibus implicari videtur. 1.a [illegible] nam [illegible] de [illegible] neutiquam a partibus mutari posse, l. [illegible] 12. ff. de [illegible] iurisdictionis delegatae [illegible] ut [illegible] [illegible] extendatur, propterea [illegible] delegata iurisdictio potuisse [illegible] quamvis [illegible] dilecta 22. de [illegible] cap. Rodulphus 37. de rescriptis, cap. prudentiam 11. hoc eod. tit., cap. [illegible] igitur quamvis [illegible] delegata iurisdictio de qua in [illegible] prorogari, [illegible] certum tempus [illegible] partium conventione prorogari non posse [illegible]

n.° 4. — Secunda difficultas ex eo provenit, quia elapso termino designato ad [illegible] tionem causae de qua in [illegible] delegatus iurisdictionem non habet, [illegible] partibus litigantibus nunquam [illegible] tribuat [illegible] iurisdictionem [illegible] l. 1. §. privatorum, C. de iurisdict. omn. iudicum, cap. si diligenti de foro competenti [illegible] rigore [illegible] temporis [illegible] [illegible] publicis [illegible] privatorum pactionibus nec mutari, nec auferri [illegible] l. ius publicum ff. de pactis [illegible] ad discrimen [illegible] causa est ut [illegible] ex [illegible] [illegible] pluribus [illegible] publicis [illegible] [illegible] si diligenti de foro competenti [illegible] de defensione [illegible] lib. 4. cap. 51. per tot. =

n.° 5. — 3. quatenus ex [illegible] colligitur partium litigantium [illegible] ad [illegible] ut iudicis delegati iurisdictio prorogetur, obstare videtur [illegible] l. 1. [illegible] l. 2. §. si [illegible] ff. de [illegible] l. [illegible] omn. iudicum, [illegible] utriusque partis [illegible] ad hoc ut prorogatio [illegible] iurisdictionis [illegible] utraque [illegible] =

n.° 6. — Denique quatenus in [illegible] elapso termino a [illegible] ad [illegible] decisionem [illegible] ff. [illegible] l. unica [illegible] C. ut [illegible] causae, quam militares [illegible] quinquaginta dierum [illegible] [illegible] ex quibus [illegible] ad cognoscendam aliquam causam [illegible] [illegible] quoniam [illegible] iudicis [illegible] designatum [illegible] [illegible] partium litigantium [illegible] ut iurisdictio extendatur [illegible] adhuc habeant iudices [illegible] [illegible] ut [illegible] diximus, [illegible] cap. [illegible] cap. si diligenti de foro competenti [illegible] =

n.° 7.

His difficultatibus ita tandem [illegible] dicendum [illegible] Alexandri Decisio. V. ex consensu partium iurisdictionis iudicis delegati prorogari posse elapso termino ad causam decidendam designato, ad cuius perfectam intelligentiam, neque hypotheticam [illegible] demonstrari facilius queat, [illegible] nulla animadvertenda veniunt; imprimis itaque sciendum est, prorogationem, quae regulariter, non tamen decisionem spectat, nihil aliud est quam iurisdictionis extensio, quae variis solere [illegible] ad causam, de re ad rem, de loco ad locum, de tempore ad tempus, et denique de persona ad personam, ut sup. n.° 1.° dicebamus, et tradunt Covarrubias [illegible] cap. [illegible] et Ubaldus in notatis, Petrus Barbosa in l. 2. ff. de iudiciis n.° 1. cum seqq., Menchaca [illegible] controversiarum usu frequentium cap. 49. in nulli [illegible] inferius referendi, ex quo sequitur deficiente iurisdictione prorogationem dari non posse, ut accidit in privato [illegible] l. 1. C. privatorum C. de iurisdictione omnium iudicum, l. 1. ff. de iudiciis, et ex loquuntur, namque [illegible] prorogari nequit l. 5. ff. de precario [illegible] quos tradit Bartolus in l. 4. in princ. ff. de damno infecto, Ubaldus [illegible] ubi [illegible] prorogationem a privato recte fieri, sed [illegible] privatos, ac proinde infert partes quae [illegible] debitorem ex mora capi posse, ac privato carceri includi irritum esse. =

n.° 8.

Rursus animadvertendum est, quod licet regulariter in utraque iurisdictione tam delegata quam ordinaria prorogatio fieri possit et soleat, [illegible] semper [illegible] aequaliter [illegible], quia delegata prorogari nequit, [illegible] ordinaria, et a simili ordinaria prorogatur, delegata vero minime, [illegible] utraque, et nunquam nullo casu [illegible] prorogatio admittitur ut statim ostendemus. Itaque prorogatio de causa ad causam, et de re ad rem quam tantummodo locum habeat in iurisdictione ordinaria cessat in delegata, quia iudex delegatus tantum intelligitur habere potestatem respectu illius causae, illius quae rei ad cuius cognitionem [illegible] nominatus est, ut ex [illegible] rescripti [illegible] solet ad examinandum iudicis ordinarii ad cuius tribunal [illegible] rei quae [illegible] subditorum cognitio [illegible] exercetur [illegible] de off. iudicis ordinarii, [illegible] cum pluribus, quos [illegible] Docuit Cofreg. [illegible] ad [illegible] de off. iud. ordinarii [illegible]. = Similiter et iurisdictio ordinaria de persona ad personam prorogari potest, [illegible] propria, at in delegata tanquam aliena minime [illegible] et quia facilius est aliquid augere, et perficere, vel prorogare, quam de novo constituere, et totaliter inducere [illegible] l. 2. [illegible] ff. de iudiciis [illegible] ff. de adquir. hered. [illegible] iurisdictio ordinaria iam est creata, delegata vero minime, [illegible] prorogatur de persona ad personam posteriorum [illegible]; facit in hoc [illegible] quod iurisdictio ordinaria est universalis respectu omnium personarum infra territorium existentium arg. [illegible] l. si [illegible] 22. ff. de [illegible] l. [illegible] 7. ff. de iudiciis, iurisdictio vero delegata non est universalis sed particularis [illegible] recipit tantum odiosa [illegible] quam [illegible] hanc rem adducentes Ubaldus [illegible] Menchaca d. cap. 49. n.° 26. Morla [illegible] 9. [illegible] 21. n.° 4. Petrus Barbosa [illegible] l. 1. n.° 40. ff. de iudiciis, Molina [illegible] 6. tract. [illegible] Cyp. [illegible] 25. n.° 2. Navarrus in cap. cum contingat 24. de [illegible] cap. 7. [illegible] =

n.° 9.

Verum licet [illegible] dicta iurisdictio delegata modis superioribus non possit prorogari iurisdictione ordinaria [illegible] accidit, et delegata prorogabilis censetur, et ordinaria improrogabilis iudicatur. Primo prorogatio quae fit de loco ad locum [illegible] in iurisdictione delegata, itaut partes possint prorogare ad alium locum iudicem delegatum, [illegible] in iurisdictione ordinaria [illegible] quia ordinarius [illegible] loci [illegible] in alio loco est privatus [illegible] iurisdictionis limites [illegible], l. finali ff. de off. praefecti urbi, delegatus vero [illegible] exercet in uno atque in alio loco [illegible] ut colligitur [illegible] l. 2. §. [illegible] iudex [illegible] = 2.° de tempore ad tempus prorogatio locum habet in iurisdictione delegata, ut [illegible] colligitur [illegible] ff. de iudiciis, secus in ordinaria, quae prorogari non potest de tempore ad tempus, [illegible] in iudice ordinario [illegible] quia [illegible] dicta iurisdictio [illegible] universalis est [illegible] finito ex consensu partium prorogaretur, esset particularis tantum [illegible] litigantes [illegible] absurdum erat, ut [illegible] Menchaca [illegible] n.° 49. Ubaldus [illegible] Quare autem in iudice delegato [illegible] prorogatio de tempore ad tempus [illegible] inferius [illegible] exolvendum [illegible] sumus hic adnotasse pro modo prorogationis iurisdictionis quae [illegible] iurisdictionis [illegible] alia hic adduci posse de quibus [illegible] iudicamus [illegible] de Sahagun [illegible] cum pluribus [illegible] =

n.° 10.

[illegible] prorogatio qualitercumque facta [illegible] locum posset habere plurima sequuntur. 1.° [illegible], ut ille cuius iurisdictio prorogatur [illegible] iurisdictionem habeat, ex [illegible] l. privatorum C. de iurisdictione omnium iudicum, l. 1. ff. de iudiciis ubi [illegible] iudex, [illegible] l. si [illegible] ff. [illegible] de iurisdictione omnium iudicum cap. [illegible] 40 [illegible] de off. et pot. iudicis delegati, cap. [illegible] de [illegible], docent [illegible] ff. de iudiciis, [illegible] Maranta [illegible] 12. in princ. [illegible] hanc [illegible] 1.° ut [illegible] delegatus, qui iurisdictionem habet de [illegible] speciali, ut [illegible] 2.° ut [illegible] prorogatio in illo tempore [illegible] publicis [illegible] vel alicuius [illegible] alterius detrahere; vel tantum prorogaret tempus [illegible] ut infra [illegible] 3.° denique ut cesset in iudice appellationis, itaut partes non possint alicuius iurisdictionem prorogare, ut tantum iudex appellationis [illegible] liquidem appellationes gradatim interponi debent, ut tradit Maranta [illegible] 22. Felinus [illegible] cap. [illegible] n.° 7. [illegible] quamvis hic posterior [illegible] abolitionis [illegible] recipiatur, ut [illegible] quos tradit [illegible] n.° 49. [illegible] =

n.° 11

Secundo prorogationis [illegible] est ut [illegible] de utraque litigantium [illegible], ut colligitur ex [illegible] ex [illegible] partium [illegible] l. 1. [illegible] l. 2. §. [illegible] ff. de iudiciis [illegible] omnium iudicum [illegible] in [illegible] sufficit tamen [illegible] litigantium consensus [illegible] debet ab omnibus approbari, [illegible] de [illegible] n.° 6. docent [illegible] partes [illegible] consentire [illegible] =

[illegible] universitas [illegible] por recipere.

[illegible] l. 2. [illegible] ff. de iure [illegible]

[illegible] C. de [illegible]

solemnitatibus introductis favore ipsarum, dixi introducta esse in favorem publicum, l. testamenti factio 3. ff. qui testamenta facere l. nemo potest 55. ff. de leg. 1. quod intelligendum est, dummodo dispositio primario, et principaliter favorem publicum respiciat, secus si secundario, quia si principaliter privatam utilitatem respiciat, optime partis renuntiatio admittitur, argumento legis quae dotis alienationem prohibet, et in casu Cum contingat de iureiurando, ubi dotis alienatio valet, quoniam favor licet adsit privatus, favor publicus secundario, alias non renuntiari requiret, l. iurisgentium 7. §. si paciscar ff. de pactis, cum aliis congestis in foro competenti. docet generaliter antiquiores et Berous nº 36.

nº 22.

Secundo ad prorogationem iurisdictionis faciendam requiritur, ut sub eadem specie fiat, ita ut iudex, qui prorogatur habeat iurisdictionem similem illi qui relinquitur; unde si iudex est quis in civilibus, et prorogari intenditur in criminalibus, non procedit prorogatio, textus in l. solemus 61. §. Satrunculator de iudiciis, in illis verbis Satrunculator de re pecuniaria iudicare non potest, cum enim prorogatio sit productio et extensio, necessario requiritur quod adsit quid producatur, et extendatur, et quod non est prorogari non potest, ut supra diximus, et tradunt Maranta ubi supra nº 18. Petrus Surdus decisione 88. nº 5. et licet multi doctores defendere tentaverint cum iurisdictio unica, tamen si aliquo restringatur ad unam, vel alteram speciem, doctores vero verius est, quia restricta ad unam speciem videtur negatum quod extendatur ad aliam diversam, ac propterea non est considerabile quod extendi valeat ex utraque dictione, quemadmodum quod iurisdictio favore partis prorogatur omnes suas qualitates servat, ita ut eandem formam et speciem servare debet et alia quae tradit plurimis exemplis hanc rem adducit Antonius Gabriel titulo communium opinionum de iudiciis conclusione 2

nº 25.

4º requiritur quod durante 1º termino fiat prorogatio secundum, aliter autem non tenet prorogatio quia nova datio, et nova productio iurisdictionis, quae privatorum pactione nullus iudex esse potest 8 l. 1. et l. privatorum C. de iurisdictione omnium iudicum, probant textus in l. si cum dies 21. ff. de receptis arbitris, l. 3. ff. de damno infecto, l. si debitori §. ff. de precario, l. bonorum possessio 24. ff. rem ratam haberi, l. an propterea 40. de appellat. Cum enim prorogatio sit extensio necesse est quod sit quid extendatur, quod considerari non potest finito 1º termino, si quidem eo ipso finita est iam iurisdictio ac propterea extendi non recipit ut tradunt Panormitanus et nº 7. Felinus nº 4. Decius nº 38. et Berous nº 29 qui etiam adducunt prorogationem fieri posse ultimo momento primi termini, cum illud momentum sit considerabile, l. cum Specie §. finali ff. de publicana in rem actione et ... quo momento possidit recte hanc actionem experiretur. l. 2. C. de posthumis heredibus instituendis et dicta intelligenda est, dixi quod prorogatio fieri posit illo momento textus in cap. dilecti ... Lenrd alias autem debet iudex prorogatio, et nova quidam dispositio perinde ac si post lapsum termini facta fuisset arg. textus in l. cum stipulatus 1. §. ff. de V. O. ita tradit generaliter antiquiores ubi supra relati. Decius nº 39.

nº 27.

Denique necessarium est ad dictam prorogationem iudicii certae coram iudice prorogato ut prorogatio cum effectu intelligatur, nec possit revocari, ut pro rei statu tradit Africanus in l. si convenerit ff. de iurisdictione omnium iudicum in illis verbis, et priusquam adeatur mutata voluntas fuerit, quasi significet alludens post aditum iudicem textus in l. 1 ff. de iudiciis et si se subiiciant alicui iurisdictioni consentientes nam nulla alia signa si necessaria ad prorogationem faciendam proposita tradit Panormitanus et Felinus et nº 4. Maranta ubi supra nº 18. et melius omnes Didacus de Salagur ... adnumeratis nº 6. cum aliis ubi hic omnia bene et digesta videri possunt.

nº 29.

His ita constitutis proponendo veniam ad nostram assertionem de causa ... ratio cum de extra voluntate partis iurisdictio, posse prorogari, hoc est ex privatorum voluntate et exemptis conceptis dependet, ex privatorum voluntate potest pariter iurisdictionem a se restrictam extendere et prorogari etiam tot iuris observatione ... ex alio quod ipsorum partis favore quarum causa iurisdictio restricta erat, cui favori potuerunt ipsi renuntiare, utile enim, et maxime favorabile partibus reperitur coram iudice, qui semel de causa cognovit litigare potius quam novum experiri iudicem l. penultima ff. de vacatione munerum exemptis conceptis ex alio non quod ex illis constat privatos iurisdictionem dare non posse, bene tamen datam prorogare, l. 1. privatorum C. de iurisdictione omnium iudicum d. l. 2. §. si vero iudex ff. de iudiciis. Unde cum tempus mittitur, sive dilationis summa ... sit taxatum, seu ut maiori celeritate lis et causa concludatur, quae iuris dispositi terminatur, cap. finis litibus de dolo et contumacia, cum de causa posita et propriatis ... properandis C. de iudiciis cum vulgatis, et hoc ut diximus favor sit ipsarum partium ... quibus terminantur, ex iuribus, ut iuxta adductis, merito ... Abbas ... cavetur partes litigantes posse iurisdictionem iudicis delegati prorogare termino ad se posito, et decessio causarum superiori designato, tanquam quod vacatis primario et principaliter in favorem ipsorum, ita tradit Panormit. Felinus, Gomezius et alij antiquiores et ... Maranta de ordine iudiciorum ... ubi ... fuerit, amplius ... nº 9. Gracia de Appellationibus cap. 16. nº 125. Petrus Barbosa ... properandis de iudiciis ...

nº 16.

Vix non obstant dubitandi rationes adversus nos adductis; Nam 1ª quod ...

iurisdictio iudicis delegati ex parte delegantis prorogari non posse tanquam odiosam, quoniam ... de essentia aliquam gratia partis ... in mutari requiunt, nam dicendum est praedicta res ... procedere in illis in quibus ... natura, et essentia subsistit aliis, tunc enim a partibus requiunt mutari ... adducta, secus ... solemnitas, vel utilitas, quae sunt mere privatis ... ut supra diximus. Nec interest iurisdictio delegata ... odiosa ... restringatur, ... quod non est beneficium iuris, ... extenditur unde prorogatio iuris beneficium sit ... cuius quilibet restrictio aufertur textus in ... l. si quis ... 74. ff. de iudiciis ... extendat et prorogat partes litigantes ... ordinarij ... in delegatis ... 32. hoc modo ... nullo ... alijs qui ... Didacus de

Salazar

Sahagum in repet. ad [illegible] n.° 19 [illegible] =
n.° 17.

Nec tunc quidquam obstat [illegible] properandum C. de jud[iciis] [illegible] tempore Cognitionis causae nam posse ex partium consensu prorogari, nam [illegible] difficultatem intelligendus [illegible] convenerit solet apud interpretes [illegible] ad prorogationem faciendam [illegible] sit nec[essari]a licentia et patientia judicis; quam [illegible] omnes antiquiores [illegible] argu[illegible] Statuimus [illegible] in causis [illegible] sufficere partium voluntatem [illegible] ut colligitur ex [illegible] l. 2 § [illegible] de jud[iciis] [illegible] non obstantibus quibusdam objectionibus, quibus [illegible] plenentur [illegible] Sahagum [illegible] n.° 23 = In Criminalibus [illegible] prorogatio desideratur Judicis ad quem causae cognitio expectat, Consensus, alias fraus [illegible] reus [illegible] judicis [illegible] praevaricatoribus, defendunt [illegible] in [illegible] l. 1 C. de [illegible] judicium Julius Clarus [illegible] l. 14 [illegible] Criminibus, in quibus judex ex officio [illegible] inquirere non obstante accusatione [illegible] Speculatorem [illegible] 7 [illegible] de inquisit[ione] § quoniam [illegible] Merlinus [illegible] properandum [illegible] partibus [illegible] sit prorogatio, nec expectatur [illegible] consensus [illegible] Criminalibus [illegible] Statuimus [illegible] ex partibus litigantibus [illegible] consensu [illegible] prorogationem fieri [illegible] posse [illegible] licentia =

n.° 18.

Minus obstat [illegible] difficultas, quae probabat prorogationem fieri [illegible] propter [illegible] [illegible] verus [illegible] termino [illegible] [illegible] Nec interest dicatur, Felinus, Philippus Decius [illegible] tradit Sahagum [illegible] n.° 24 [illegible] nihil [illegible] Statuendo [illegible] =

n.° 19.

Pariter non obstat [illegible] difficultas deducta ex l. [illegible] § [illegible] judex [illegible] [illegible] Bart. [illegible] Baldus [illegible] sufficere ad prorogationem faciendam, absque [illegible] consensu [illegible] prorogatio [illegible] [illegible] n.° 51 [illegible] judex [illegible] Litigantibus [illegible] judice [illegible] prorogationem faciendam.

n.° 20.

Denique non obstat [illegible] [illegible] termino [illegible] ad judicandum [illegible] partium [illegible] [illegible] = Nec quidquam obstat [illegible] [illegible] Decretalis [illegible]

Ex his omnibus [illegible] decidendi [illegible] inter [illegible]

n.° 21.

Difficile [illegible] Decretalis relatus in cap. Venerabilis 20 de judiciis, ex cujus [illegible] elegante [illegible] aperte colligitur, videlicet Delegatus [illegible] Cognitio [illegible] terminus [illegible] [illegible] Nec [illegible] Venerabilis [illegible] [illegible] Verum [illegible] [illegible]

[illegible]

causa triennio perimatur a die motae litis ... Quaerere semper ... confirmatione ... Secundo ab interlocutoria ... appellet, quae ... vim diffinitivae, vel gravamen irreparabile ... fere ... animadvertit plures qui de hac re agant referens ... Deinde ... aliis difficultatibus ... cap. ... in causis criminalibus ... ===

No. 22

Secundo infertur interpretatio ad tertiam difficultatem in cap. ... et § 40 ... de off. ... iudicis delegati ... iurisdictionis prorogatio nulla ... iurisdictio delegata ... ad alias personas ... prorogari ... iurisdictionis delegatae fieri non posse ... prorogatio ... ab hac difficultate liberabimur si dicamus ... de personis ad personas ... delegatus ... ad alias personas ... prorogatio cessat ad ... ordinariae iurisdictionis ... de persona ad personam ... prorogatio de persona ad personam ... Morla ... alios ... ===

[Margin:] Molina ... n. 46 ... Menchaca ... Navarro ... denique Morla

No. 23

Hanc solutionem ... doctrinam ... Cap. ... 1. ... quia ... iurisdictio ... delegati prorogari de persona ad personam ... est speciale ... in beneficio ex rescripto impetrato ... beneficium ... violenter ... successores ... de ... Morla ... 2. Obstat ... de off. ... Rodericus ... rescripto ... delegati prorogatio de persona ad personam admittitur. Verum ... successores ... rescripto ... dignitatis ... Thomas ... Gonzales ... Denique obstat ... alienatione iudicii mutandi causa facta ... de persona ad personam. Facile hoc dissolvitur dicendo prorogationem ... Morla ... ===

No. 24

3. ... ad interpretandum ... Decretum relatum in cap. ex quaestione 10. de rest. spoliatorum ... iurisdictio iudicis delegati ... prorogari ad ... instante ... uxore ... matrimoniali ... iudex delegatus prorogetur ... Hanc difficultatem ... solutionibus ... delegationis ... delegatus ... cognoscere ... causa ... reus ... iudice delegato ... ===

[Margin:] ... decisis ... potest

... Morla ... de off. ... iudicis ... ===

No. 25

4. ... interpretari ... difficile ... rescriptum relatum in l. si duerint ff. de iurisd. omn. iudicum ... si duerint ... iurisdictio ... mutata voluntate ... iudice ... fideicommissario ... voluntatis ... prorogat ... iurisdictionem ...

iudices

iudicij ipoui ex ocnsu partiu prorogari, aut si prorogata fuit nullu effectu fuit sortita, qd utrumque valde difficile videtur, si pinc ti videremus, et attendamus qd statutu extat in l. si quis in conscribendo penult. C. de pactis, qua decidetur pactu factu ad prorogandam iurisdictionem alterius iudicis tantu ex consensu partiu validum, et firmum esse; igitur tale aut invalidu in utraque, aut validu debuit esse.

nº 26.

Difficultatem hanc ut antiquiores dissolvant, ut que predicta in amicitiam redigant varias omnino quam solut. ut constat ex his que ... Bart. et Paulus de Castro ... si convenerit adeo ut ... ad lydem ... fuerit ... si convenerit correctu fuit ... ex nova Justiniani ... relata ... penult. C. de pactis, ad qd probandu aducit illa ... penult. verba, licet antea dubitabatur. ... omnibus magis placet Cujacij, et Antonij Fabri ... ad d. § si convenerit exposito, existimant itaque predicti ... si convenerit pactum medium adhuc ... a litigantibus celebratu ... producat ex notissimis ... partibus volunt ... nulla iurisdictio ... nec actiones, nec exceptiones ... at post in d. l. penult. pactu ... fuit, sed pactum ... producere ... obligatum, vel ad minus exceptionem parit, ... valeret ... qd ibi ... fuit factu. ... concluditur qd ex consensu partiu recte prorogatur ... iurisdictio et ... Africanus ... ex consensu partiu ... fiat ... quentoilla, de qua in d. l. si convenerit, fuit interposita, ut qd diximus. =

nº 27.

Denique in gratiam advocatorum interpretandi ... l. 18. et 19. tit. 13. lib. 4. novae recopilationis ubi statuitur civitatis decuriones in causis civilibus posse in gradu appellationis cognoscere in summa ... triginta millium maravedinorum ex pracmatica facta anno 1619. et 1632. ita ut ... litigantes ... possint ... iurisdictionem in maiori summa prorogare, ... ipsi cognoscant in gradu appellationis de maiori summa quam d. lege illa ... praefinita, et taxata ita ... tradunt Abendanus in capitulis ... cap. 1. nº 32. et cap. 6. nº 1. Gutierrez de iuramento confirmatorio ... nº 20 ubi plures alios ... refert. ... prorogatio iurisdictionis ... litigantibus ... recte per nos ... Videtur. = Hanc difficultatem ... decuriones civitatis olim tantum potuisse ... appellationis cognoscere de summa decem millium maravedinorum, postea ... ad viginti, et denique ad 30, ... litigantibus, qui si forte ad tribunalia superiora deberent recurrere ... ut ex d. legibus ... tradunt Acevedo in l. 7. tit. 13. lib. 4. novae recopilationis nº 8. ... lege ... Toleti ... et alter ... =

Hoc supposito dicimus ... ex voluntate partium litigantium decurionum iurisdictionem prorogari ... in illis legibus clausula irritationis ... quantitatis ... =

... Hic decurionum ... iurisdictio ... quantitatis ...

nº 28.

temporis limitata reperitur, quoniam ex d. legibus colligitur pars gravata debet appellationis remedium ... infra quinque dies ... et intra triginta probare ... decem millium maravedinorum ultra quantitatem ... intra decem dies pronunciare tenentur ... prorogari ... nullius momenti est ... statutu, vel lege prorogatio interdicitur ... licentia prorogandi partibus ... dependeat ... C. de pactis ... l. ... C. de legibus ... tradit ... ferrocio ... Avilés in capitulis ... cap. 49 ... Gutierrez ... nº ... =

Vero quamvis certum ... restat ... de iuramento confirmatorio cap. 5 nº 11. ... litigantes ... sententiam ... dicere ... valeret ... in hoc casu ... nulla est ... tradunt Joannes Gutierrez ... nº 19. ... nº 18. =

nº 29.

In longe ergo expendi pot. ... advocati ... in cap. ... de testib. ubi qd alicui ... et dispositio ... certum ... ut ... fiat; ... loco, ... tamen ... mora ... ad testandu ... in l. 9. tit. 4. lib. 6 recopilationis ... prorogari ... ad testandum ... = Facile ...

+ advocatorum

+ ad testandu decr.

sobre los Fachines ... Stouer. cap. ...

[illegible] absolvitur. Si dicamus [illegible] testatore prorogari [illegible] ad [illegible] clarissime quia terminum [illegible] designat, de quibus in dictis [illegible] fuerunt [illegible] in favorem [illegible] ad testandum, [illegible] ultimae [illegible] voluntatis executioni mandet, [illegible] positum [illegible] testantis voluntas effectu [illegible], vel [illegible] certum sit in [illegible] remunerare, [illegible] C. de pactis [illegible] terminum [illegible] ut [illegible] a testatore [illegible] [illegible] termino [illegible] post [illegible] Molina [illegible] 7. [illegible] 4 recopilationis [illegible] 2. n. 3. Menchaca de successionum creat. §. 4. n. 3. Gutierrez [illegible] pract. q. 3 [illegible] 4.

n. 30.

Testamentarijs [illegible] testatoribus [illegible] terminus [illegible] designatus ad [illegible] defuncti voluntatis prorogare, et extendere, nam licet [illegible] testamentarij [illegible], [illegible] de [illegible] l. nulli [illegible] C. de episcopis et clericis, auth. hoc amplius C. de fideicommissis [illegible] Barbosa [illegible] 3. [illegible] allegat. 82. n. 18. [illegible] 3. cap. 27. [illegible] collect. ad Decretales [illegible] 40, [illegible] alij [illegible] relati, [illegible] favorem testatoris est inductus ut [illegible] prorogare, [illegible] ampliare, [illegible] testatoris in locum negligentis executoris alium substituere possit, [illegible] tacita executoris substitutione [illegible] tradit Baldus in l. unica C. de [illegible] in d. l. nulli C. de episcopis et clericis [illegible] l. nemo potest 128. ff. de legatis [illegible] [illegible] ut nullo modo [illegible] executori [illegible] executoris [illegible] intelligatur [illegible] a testatore [illegible] Barbosa [illegible] Covarr.

n. 31.

[illegible] difficultas [illegible] testator [illegible] mutare formam a [illegible] statuto, auth. licet testator, C. de episcopis et clericis, [illegible] legem [illegible] valeant, l. nemo potest [illegible] ff. de legatis 3. [illegible] [illegible] [illegible] de consuetudine [illegible] 17 [illegible] de [illegible] patronatus [illegible] Barbosa [illegible] 27. [illegible] [illegible] statuto [illegible] [illegible] [illegible] testatoris [illegible] [illegible] [illegible] [illegible] [illegible] quemadmodum [illegible] [illegible] a testatore facta admittere, [illegible] testamentarij [illegible] [illegible] executionem [illegible] Barbosa [illegible] [illegible] l. nemo potest [illegible] n. 81 [illegible] plene ac plane [illegible]

n. 32.

[illegible] prorogare [illegible] [illegible] [illegible] [illegible] in [illegible] [illegible] delinquens [illegible] procedere valeat, ut [illegible] malo exemplo [illegible] voluntate, aut [illegible] prorogantis [illegible] publico, l. [illegible] 7. §. [illegible] l. [illegible] publicum 38. ff. de pactis [illegible] maleficijs [illegible] [illegible] l. locatio §. [illegible] ff. de publicanis et vectigalibus [illegible] Panormitanus [illegible] [illegible] 40. de [illegible] Petrus Surdus decis. 26. n. 4.

n. 33.

[illegible] prorogationis subditi nullus posse [illegible] fieri, ut renunciat [illegible] facta, [illegible] [illegible] tam in civilibus, quam criminalibus [illegible] [illegible] subditus [illegible] simul cum causa [illegible] [illegible] declinatoria [illegible] subditus [illegible] prorogationis [illegible] [illegible] prorogatio, vel renunciatio [illegible] [illegible] [illegible] Barbosa in l. 2. cap. [illegible] 28. ff. [illegible] Gregorius Lopez [illegible] 1. p. [illegible] [illegible] interest [illegible]

[Margin notes:]

[illegible] 9.

Unica tantum sufficiat [illegible] quum [illegible]

[illegible]

posit inter partes, a d[ic]tis partibus prorogari, nam hoc generale, ita intelligitur, dummodo tradatur de superiori jurisdictione, quam ipsi [illegible] decernaltis, non valet prorogatio, duo enim requiruntur ad [illegible] actuum [illegible], voluntas, et potestas [illegible] hoc [illegible]. [illegible] qui tradit [illegible] in l. multis 6. C. si quis alteri, vel sibi; [illegible] deficiat potestas quam [illegible] volentes prorogantes, [illegible] prorogatio, propterea [illegible] dicitur [illegible] necessaria [illegible] debet intervenire, nec unum [illegible] sufficit, l. si haeredes [illegible] conditionibus institut[ionum], notat [illegible] 47 [illegible] [illegible]. Sive in ullam [illegible] interveniant; an [illegible] arbitris [illegible] prorogari possint [illegible] jurisdictionem [illegible] causis criminalibus, [illegible] qui [illegible] libenter omittimus, [illegible] judicantes de illis resolutive, quae latius [illegible] tractarunt, Marta [illegible] [illegible] glossa [illegible] 26 [illegible] qui [illegible] Ovalles [illegible] capitulo [illegible] Julius Clarus [illegible] finali q. 42 in fine [illegible] l. i. [illegible] ordinamenti [illegible] 28. column[a] [illegible] quidam [illegible] criminalibus plures qui alii [illegible]. Nos vero [illegible] hic pro [illegible] perfectam explanationem [illegible] cedat in [illegible] omnipotentis Laude, [illegible] Mariae [illegible] sanctis, nec non utilitatem habentium.

[illegible]

[illegible] 22 Martii [illegible] 1658

Scheda 19.

Ad Cap. Cum inferior. 16. de maiorit. et obed.

cap. [illegible] ad Maurit[illegible] [illegible] Ecclesia [illegible] [illegible] inserius [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] ab anno Domini 1227. usque ad annum 1241 [illegible] [illegible] [illegible] [illegible] Cathedralem [illegible] [illegible] [illegible] Archiepiscopus [illegible] Monasterium [illegible] [illegible] Archidiaconum [illegible] Cathedralem [illegible] quam [illegible] cathedralibus [illegible] fuit [illegible]. [illegible] Archidiaconi [illegible] monasterium [illegible] exercere [illegible] [illegible] [illegible] [illegible] [illegible] monasterium [illegible] cathedralis erectum [illegible] [illegible] [illegible] in cathedralem [illegible] [illegible] tentaret [illegible] [illegible] tanquam [illegible] [illegible] in cathedralem [illegible] [illegible]. [illegible] De hac re [illegible] Greg. [illegible] Archidiaconus [illegible] [illegible] Monasterium [illegible] Archidiaconi [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] aliquid [illegible] Archiep. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] attentaret [illegible] jurisdictionem Archidiaconi [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Archidiaconus [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] obsequiis [illegible]. [illegible] [illegible] [illegible] asseverat [illegible] erectum [illegible] [illegible] [illegible] [illegible] [illegible] et honestis [illegible] [illegible] Archidiaconi [illegible]. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Archidiaconi [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] utrique [illegible] [illegible]. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] decisio [illegible]. [illegible] [illegible] Archi[illegible] [illegible] et capitulo [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] jurisdictione Archidiacono [illegible] et [illegible] potestati [illegible] diacono [illegible] cathedralis [illegible] [illegible] [illegible] [illegible] [illegible] cathedralis remanet [illegible] antiquiorem [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] cathedralis [illegible] [illegible] [illegible] [illegible] [illegible] cap. 11. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Garcia [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]. Barbosa [illegible] [illegible] [illegible] [illegible] [illegible] Debent [illegible] 22. cap. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Dubitandi

ratio [illegible] [illegible] monasterium [illegible] [illegible] in ecclesiam cathedralem erectum non jurisdictioni Archi-diaconi [illegible] [illegible] subjectum esse [illegible] [illegible] [illegible] alicuius ecclesiae erectio seu commutatio [illegible] abs[que] damno [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Gregorii decreto relato in cap. [illegible] monasterium. [illegible] [illegible] [illegible] proponit [illegible]. Monasterium [illegible] desolatum fuisse propter [illegible] [illegible] [illegible] [illegible] [illegible] episcopatu esset subjectum desolatumque et destructum [illegible] [illegible] [illegible] [illegible] [illegible] Monasterio [illegible] Monasterium [illegible] [illegible] celebrandum [illegible] respondit [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] dioecesi transeat [illegible] [illegible] [illegible] jurisdictio Monasterium [illegible] desolatum fuit non [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] desolaretur erat statutum [illegible] [illegible] [illegible] Ponti[illegible] penes illum [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] praelatis inviolata servare [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] in loco [illegible] [illegible] [illegible] juris [illegible] [illegible] [illegible] [illegible] merito et [illegible] [illegible] [illegible] [illegible] [illegible] naturam [illegible] [illegible] [illegible]. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] asseverat Monasterium praedictum [illegible] alias erat subjectum [illegible] quemodo in praesenti [illegible] [illegible] [illegible] asseverat [illegible] [illegible] jurisdictioni exemptum esse [illegible] jurisdictioni [illegible] [illegible] [illegible], et damnum [illegible] [illegible] [illegible] ecclesiae cathedralis [illegible] [illegible] [illegible] [illegible] dubitandi ratio [illegible] [illegible] asserimus in praesenti [illegible] erectionem [illegible] fuisse ab [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] erectio Monasterii aut ecclesiae cathedralis fieri non [illegible] [illegible] Pontifices a [illegible] [illegible] [illegible] translationis [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] cap. 11 n° 278. [illegible] [illegible] legati [illegible] [illegible] [illegible] de commutationis [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] lib. 1. [illegible] [illegible] ecclesiae cathedralis n° 1. [illegible] erectio Monasterii in ecclesiam cathedralem [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Archidiacono [illegible] [illegible] [illegible] [illegible] auctoritatis Rom. Pontificis [illegible] ad hoc omnino necessaria est. [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Monasterium in cathedralem ecclesiam erectum [illegible] [illegible] Archidiaconi [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] rationis [illegible] assertionis [illegible] [illegible] et [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] ecclesiastica [illegible] [illegible] [illegible] et [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] ad Clementem [illegible] Diacono et inferioris ordinis [illegible] [illegible] [illegible] [illegible] [illegible] Eusebius lib. 6. historiae ecclesiasticae cap. 33. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] futurum [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

Marginalia: [illegible] / Dubitandi / [illegible] / [illegible] 22 n° [illegible] sicut [illegible] de excessibus praelatorum [illegible] [illegible] [illegible] n° 5 / [illegible] / [illegible]

Papas et summos sacerdotes appellabant ut tradita a Mendoza in sal. Illiberitani lib. 2. c. 30. quandoque etiam Papas nomen [illegible]
ut ostatur [illegible] Sidonius Apollinaris epistolis, ex [illegible] [illegible] ecclesiasticae p. 18. [illegible] Ubi quod Martinus Papa dicitur et Archiepiscopus [illegible]
rensis. itaque tamen, ut docent Baronius anno 1[illegible] [illegible] Ant. Aug. de emendat. Gratiani lib. 1. Dialogo 10. quum ipsi Episcopi sive
semperque sit autho. [illegible] iurisdictio, ministros habebant in [illegible] qui Diaconi sunt, [illegible] [illegible]. ex quibus Diaconi
pote Archidiaconi creabantur [illegible] [illegible] quemadmodum ac Archipresbiteri ex Presbiterorum ordine, [illegible] [illegible] [illegible] [illegible]
tum a Corpore Diaconorum Archidiaconi eligebantur minores videntur habere potestatem ac Archipresbiteri, [illegible] multo minor [illegible] potestas, ac [illegible]
et iurisdictio episcopalis. [illegible] [illegible] Hieronymus in [illegible] ad [illegible] graviter invehitur in Archidiaconos, qui Archipresbiteros
se antepenendos esse ostendebant [illegible] Maneat [illegible] [illegible] maior sit iurisdictio Archipresbiterorum Archidiaconi. = Joanes [illegible] impugnant
[illegible] 1. de off. archipresbiteri [illegible] [illegible] Archipresbiterum subiectum esse Archidiacono [illegible] Archidiaconum [illegible]
minor [illegible] Archipresbiteri, probat ex [illegible] [illegible] 1. de off. primicerii, [illegible] [illegible] quemadmodum Primicerius, ita et Archipresbiter subiectus
esse debet Archidiacono = Sed ut hoc intelligamus, ut queremus hanc [illegible] Clementinarum ut [illegible] decisionis [illegible] accedamus
[illegible] in [illegible] quadruplici [illegible] maioritatis [illegible] ex tempore, de qua loquitur [illegible] 1. [illegible] 4. de maioritate et obedientia [illegible]
[illegible] dist. c. [illegible] 96. dist. [illegible] exprogativa ordinis, cap. Statuimus [illegible] [illegible] exprogativa Ordinantis [illegible] [illegible] de maioritate
et obedientia quarta ratione Dignitatis seu maioritatis officii. [illegible] propositis [illegible] [illegible] observandum aut loquimur de maioritate
ratione Dignitatis, aut de maioritate ratione ordinis, aut temporis, si de maioritate ratione Dignitatis loquimur [illegible] Archidiaconus [illegible]
presbitero dicitur respectu [illegible] Dignitatis itaque [illegible] in qua minorem reverentiam debet exhibere, si vero de maioritate ratione
loquamur maior est [illegible] Archipresbiter, itaque in Missis celebrandis ei debet Archidiaconus inservire, quo casu [illegible]
docent Archipresbiterum maiorem Dignitatem habere, ac Archidiaconum, at [illegible] cum docent maiorem esse Archidiaconum habent
in [illegible] contrarium [illegible] [illegible] [illegible] loquitur [illegible] 1. de off. primicerii, [illegible] 1. de off. Archipresbiteri
Nec novum, aut insolens [illegible] ut diversis respectibus [illegible] [illegible] maior, et minor sit. [illegible] [illegible] Canonico possem afferre
[illegible] [illegible] sufficiat [illegible] in [illegible] [illegible] [illegible] [illegible] filius in potestate patris [illegible] [illegible]
patria potestate [illegible] [illegible] a parente [illegible] [illegible] [illegible] [illegible] remanet in potestate patris. [illegible] filius [illegible]
[illegible] quibus modis ius patriae potestatis solvitur [illegible] [illegible] [illegible] 14. ff. ad [illegible] Trebellianum [illegible] filius ratione
potestatis patri subiectus minor est, [illegible] filius [illegible] maior, [illegible] subiectus sit parens. Similiter [illegible] et Archidiaconus [illegible]
quoad aliqua minor sit ac Archipresbiteri, in aliis multo maior, ut iam vidimus, [illegible] [illegible] [illegible] supra [illegible] potestatem
aliquam habeat. [illegible] semper supra Archidiaconum iurisdictionem habuit, semper quae habebit. Hanc doctrinam [illegible] tradit
in d. c. 1. de off. primicerii et in d. c. 1. de off. Archipresbiteri. =

[illegible] [illegible] [illegible] [illegible] [illegible] verissimum esse [illegible]
Gregorii decisionem quatenus [illegible] asseruimus Monasterium [illegible] alias subiectum erat Archidiacono [illegible] erectionis [illegible]
ecclesiae Cathedralis Episcopo subiectum esse [illegible] quis est qui nesciat, superiorem minime subiciendum inferiori
probat [illegible] [illegible] inferior 4. 21 dist. cap. fin. de officio archipresbiteri cap. solitae de maioritate et
obedientia Clem. 2 de elect. [illegible] non est receptum 14 ff. de iurisdict. omnium iudicum de iure [illegible]
in [illegible] 5. tit. 15. part. 1. [illegible] [illegible] [illegible] sent. [illegible] [illegible] naturalique [illegible]
[illegible] iure [illegible] [illegible] pro cunctis adfferam exemplum [illegible] in d. cap. inferior 4. 21 dist.
ubi [illegible] inferiorem superiorem absolvere non posse ratio [illegible] est [illegible] absolutionis beneficium est [illegible]
iurisdictionis cap. 1. de maioritate et obedient. lib. 6. cap. [illegible] [illegible] [illegible]
[illegible] [illegible] tradunt [illegible] in manuali cap. 23. n. 160. et alii plures, [illegible]
[illegible] est sent. [illegible] [illegible] [illegible] [illegible] et obligatio [illegible] ab habente iurisdict. [illegible]
equali superiori iuris dict. fieri non potest. [illegible] [illegible] et [illegible] [illegible] [illegible]
[illegible] qui et [illegible] iuxta illud [illegible] [illegible] [illegible] intera erit [illegible] et in celis
et [illegible] [illegible] in terra erit [illegible] et in celis [illegible] [illegible] citati, [illegible]
Summa lib. 1 cap. 46. n. 1. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 2. [illegible]
[illegible] ex communicari etiam [illegible] sciamus nullum superiorem esse cui subiectus sit [illegible] de
[illegible] et aliis quamplurimis [illegible] [illegible] ad [illegible] [illegible] cap. Sane [illegible] Cum [illegible]
qui in his quae a consecrat. et ordinis [illegible] [illegible] immediate iurisdictionem obtineat in aliis [illegible]
a Rom. Pontif. qui fuit assumptus in plenitudinem potestatis ad [illegible] [illegible] prelatorum qui in
partem sollicitudinis sunt vocati, ut probatur ex cap. ad honorem 4 de authoritate et usu
Pauli [illegible] [illegible] [illegible] tantae et tam maioris authoritatis habens iurisdictionem habe[illegible]
sup. Archidiaconum, et [illegible] [illegible] [illegible] [illegible] Monasterium [illegible] erectum in ecclesiam Cath[illegible]
dralem non [illegible] Archidiacono [illegible] Episcopo subiectum esse [illegible] iurisdictionis [illegible]
Concessio ex qua [illegible] [illegible] [illegible] eleganter [illegible] [illegible] [illegible] [illegible]
[illegible] inferior 21 dist. n. 3. et 4. [illegible] autem erectio Monasterii in Cathedralem ecclesiam [illegible]
[illegible] pervenit [illegible] [illegible] semper curare debemus ut cultus divinus augeatur non ut diminuatur
cap. [illegible] de institutionibus cap. [illegible] [illegible] [illegible] quandoque ecclesia episcopalis in Metropo[illegible]
[illegible] [illegible] admittendum est. [illegible] necessitas [illegible] [illegible] [illegible] ecclesiis assignare
[illegible] [illegible] occasio [illegible] populis et civitatibus [illegible] [illegible] dignitas [illegible]
[illegible] ut eleganter [illegible] [illegible] [illegible] 10. [illegible] [illegible] [illegible] [illegible]

Schedas. 20.

Ad cap. Coràm foelicis memoriæ. 7.
de in integ. restitut.

Iam ex [illegible] in primo Decretorum libro continentur posteriorem nostri Pontificis [illegible] videbant [illegible] explicanda [illegible] ulla [illegible] restitutionis [illegible] tanquam minoris [illegible] quam [illegible] [illegible] facimus, fuit itaque [illegible] Bracharensem Archiepiscopum [illegible] Primatus [illegible] decidenda [illegible] ad hoc ut [illegible] ad sedem Apostolicam mitterent ut [illegible] [illegible] designatio procuratores Bracharensis Archiepiscopi [illegible] [illegible] alia munera [illegible] Pontifici [illegible] quasi ad hoc faciendum [illegible] postularit [illegible] terminus peremptorius ad hoc [illegible] tandem [illegible] ad hoc [illegible] admitti [illegible] exhibentes super hoc speciale mandatum. Ut noster [illegible] usque ad octavas Pentecostes [illegible] habentes [illegible] magni [illegible] Patriarchas [illegible] Bracharensis [illegible]

n° 2. [illegible] ut ad alia transeamus, animadvertendum [illegible] Archiepiscopum [illegible] Bracharensem Primatem esse [illegible] Primatis [illegible] hanc [illegible] sequenti [illegible] Bracharensis [illegible] Bracharensis [illegible] Primatus [illegible] et semper habitum [illegible] nihil ad rem facit [illegible] Bracharensis [illegible] Primas [illegible] Toletanus [illegible] Hispaniae [illegible] cap. 6.

n° 3. [illegible] Ecclesia [illegible] [illegible] cap. [illegible] Panormitanus [illegible] [illegible] de Ancarrano [illegible] cap. 11. n° 3. [illegible] var. resolut. cap. 6. [illegible] [illegible] cap. 4. [illegible] de nobilit. [illegible] [illegible] de Alena [illegible] [illegible]

n° 4. Sed licet hoc [illegible] [illegible] quando [illegible] cap. [illegible] fraternitatis [illegible] de procuratoribus [illegible] [illegible] admitti [illegible] [illegible]

n° [illegible] [illegible] adversus [illegible] speciale mandatum [illegible] vel [illegible]

n° 5. [illegible] [illegible] ad remaliquam [illegible] [illegible] restitut. [illegible]

[illegible]

Margin: [illegible] Decre[illegible] [illegible]

n. 7. Denique quatenus [illegible] Statutum adversus lapsum temporis [illegible] obstat, sequens [illegible] [illegible] tempus [illegible] ut [illegible] cap. 1. [illegible] 3. [illegible] restit. in integrum l. 10. [illegible] 19 [illegible] 6. Sed minor [illegible], et elapso termino assignato ad [illegible] antiq[illegible] [illegible] l. properandum 13. § [illegible] ff. de judiciis [illegible] beneficium restit. in integrum o lapsum [illegible] frui [illegible] et hoc [illegible] denegatur, ut [illegible] dicemus.

n. 8. Quibus difficultatibus [illegible] dicendum [illegible] verissimum esse [illegible] assertionem [illegible] aut negligenter admittendum et audiendum esse beneficium restitutionis in integrum adversus [illegible] lapsum, [illegible] excludendum [illegible] speciale mandatum [illegible] parentes, [illegible] ut demonstrare possimus, [illegible] nulla [illegible] utilia, [illegible] Venimus [illegible] proponimus, ut titulo [illegible] restitutio in integrum [illegible] opinionem [illegible] in quo erat ante [illegible], probant [illegible] 24. [illegible] ff. de minor. [illegible] l. Videamus [illegible] Fabiano [illegible] l. 2. § restitutio [illegible] [illegible] restitutionis, de [illegible] in [illegible] 6. [illegible] aliquem [illegible] de in integrum restit. [illegible] cap. [illegible] 6. [illegible] [illegible] docent [illegible] 46. § [illegible] 3 [illegible] [illegible] 15. § sed [illegible] [illegible] [illegible] [illegible] n. 35. Morla loco citato n. 3. [illegible] Richardo [illegible] n. 39 [illegible]

n. 9. Ex quibus [illegible] restitutionis in integrum [illegible] rem [illegible] cum fructibus [illegible] [illegible] doctrina [illegible] Paul. [illegible] restitui [illegible] cum fructibus [illegible] l. [illegible] 28. [illegible] minor 41. § 1. l. si [illegible] 51. [illegible] l. Filio 16. § 1. ff. de [illegible] l. [illegible] 6. l. Imperator 16. [illegible] [illegible] l. sed [illegible] l. si [illegible] 16. C. [illegible] minor [illegible] [illegible] alienationem [illegible] [illegible] fructus veniant [illegible] restituendi, l. restituere [illegible] 137. § [illegible] docent [illegible] Richardus [illegible]

n. 10. [illegible] plurima [illegible] difficilia loca, de quibus [illegible] Richardus [illegible] 45. [illegible] 47. [illegible] [illegible] [illegible] beneficium restit. in integrum [illegible] Cui difficultati [illegible] [illegible] restituendum venit. [illegible] admitti debet [illegible] [illegible] cum fructibus [illegible] expensis [illegible] [illegible]

n. 11. [illegible] restit. in integrum [illegible] quadriennium [illegible] cap. [illegible] [illegible] restit. [illegible] quadriennium [illegible] multos post [illegible] annos [illegible] in integrum [illegible] 44. [illegible] restit. in integrum ultra quadriennium [illegible] enormis [illegible] [illegible] quale sit damnum enorme [illegible] quadriennium [illegible] in integrum restit. [illegible] [illegible] damnum enorme [illegible] [illegible] ultra quadriennium [illegible]

Necessitat [illegible] ad [illegible] ea [illegible] aliena [illegible] fuisse, cum tamen [illegible]
[illegible] ad valid[illegible] [illegible] Alvar[illegible] q. 1. n. 4. [illegible]
[illegible] intervenisse, aliasque [illegible] enormi lesio[illegible] [illegible]

n.° 12. [illegible] quod licet regulariter [illegible] ex [illegible] debeant observari [illegible]
[illegible] quando [illegible] adque [illegible]
[illegible] vel aliis [illegible]
[illegible] adhuc tamen quid [illegible] fuerint rescindat [illegible]
[illegible] restitutio [illegible]
quod remedium [illegible] potest [illegible] publicus [illegible]
[illegible] cap. si quid [illegible] Vulgatus, nec in publicis [illegible]
[illegible] necessarium [illegible] privatorum [illegible] publicis [illegible]
[illegible] excommunication[illegible] [illegible]
[illegible] licitum [illegible]
[illegible] resolutio [illegible] ut [illegible] Molina [illegible]

n.° 13. Deinde [illegible] advertimus hoc [illegible] restitutionis [illegible] duplex [illegible] alterum rescindens, alterum [illegible]
[illegible] rescindens [illegible] ad rescindendum [illegible]
[illegible] atque deceptus [illegible]
[illegible] stipulatus [illegible]
[illegible] rescindit [illegible]
[illegible] rescindit [illegible]
[illegible] de minoribus [illegible]
[illegible] remedium rescindens [illegible] rescissorium [illegible]
[illegible] de minoribus [illegible] Gl. [illegible] Vl. [illegible]
[illegible] libello [illegible]
[illegible] successive [illegible] filius [illegible]
[illegible]
[illegible] deceptus [illegible] rescindit [illegible]
[illegible] de minoribus [illegible]
[illegible]
[illegible] resolvit Ant. Gomez tom. 2 Var. cap. 14 [illegible]

n.° 14. [illegible] ad [illegible] remedium restitutionis [illegible]
[illegible] annorum [illegible] anni [illegible]
[illegible] de minoribus [illegible]
[illegible] creditor [illegible] notat [illegible]
[illegible] cap. 28. [illegible] anni [illegible]
[illegible] anni [illegible]
[illegible] restitutione [illegible]
[illegible] majoribus [illegible]
[illegible] fuerint, vel post [illegible]
[illegible] de [illegible] restitutionem [illegible]
[illegible] restitutionem [illegible]
[illegible]
[illegible]
[illegible] de minoribus [illegible]

n.° 15. [illegible] de minoribus [illegible]
[illegible]
[illegible] adversus [illegible]
[illegible] ubi [illegible] notat [illegible]
[illegible] quinquaginta anni [illegible] restitutio [illegible]
[illegible] quoniam [illegible]
[illegible] restitutio [illegible] petit [illegible]
[illegible]
[illegible] Surdus [illegible] Menoch. [illegible]
[illegible] 10. [illegible] ad [illegible]
[illegible]

n.o 16. [illegible] hoc beneficio restitutionis in integrum [illegible]
[illegible] intelligi [illegible] hospitalibus [illegible]
[illegible] hospitalibus [illegible] D. [illegible] notant [illegible]
[illegible] hoc n. 25. [illegible] Sequitur hanc restitutionem [illegible]
[illegible] aut minor adversus alteram ecclesiam vel alterum minorem [illegible]
[illegible] videtur obstare illa [illegible] privilegiatus contra pariter privilegiatum [illegible] gaudere [illegible]
[illegible] l. 12. [illegible]
[illegible] ecclesia [illegible] alleg. [illegible] restitutionis in integrum [illegible]
[illegible] privilegiatus [illegible] privilegiatum [illegible] privilegia [illegible]
[illegible] in pignore habeantur [illegible] privilegium [illegible]
[illegible] ut notat [illegible]
[illegible]
[illegible] Capta [illegible] 1000 [illegible] =

n.o 17. Denique [illegible] ecclesiae [illegible] beneficio restitutionis in integrum [illegible]
[illegible] adversus [illegible] laico, hanc [illegible] cum [illegible]
[illegible] hanc doctrinam [illegible] n. [illegible] ecclesiae [illegible]
[illegible] in integrum beneficio semper cum [illegible] spoliandus [illegible]
[illegible] in Sardinia [illegible]
[illegible] spiritualia [illegible] temporalia [illegible] ecclesiae [illegible]
[illegible] =

n.o 18. [illegible] propter [illegible] venit [illegible]
[illegible] debuit ecclesia restitui adversus [illegible]
[illegible] defendere allegando [illegible]
[illegible]
[illegible] quidquid [illegible]
[illegible]
[illegible] a tempore [illegible]
[illegible] debet [illegible]
[illegible] statuta [illegible]
[illegible] decidendum [illegible]
[illegible] =

n.o 19. [illegible] adversus [illegible]
ecclesiam admitti [illegible] beneficio restitutionis in integrum [illegible] propterea [illegible]
[illegible] admitti [illegible] beneficio [illegible]
[illegible]
[illegible] procedit [illegible]
[illegible] adversus [illegible] beneficio restitutionis in integrum [illegible]
[illegible] admissio [illegible]
[illegible] =

n.o 20. [illegible] obest [illegible] difficultas [illegible] dicebamus [illegible] restitutionis in integrum [illegible] ecclesiae [illegible]
[illegible]
[illegible]
[illegible] dicendo [illegible]
[illegible]
[illegible] restitutionis in integrum [illegible] nullius [illegible]
[illegible] restitutionis [illegible]
[illegible]
beneficio restitutionis in integrum [illegible]
[illegible] =

n.o 21. [illegible] beneficio restitutionis [illegible]
[illegible]
[illegible]

[illegible] quae si solemniter [illegible] [illegible] ... [illegible]

... loco citato n. 21. 22. =

n. 22. Denique [illegible] dubitatur [illegible] ... [illegible]

n. 23. [illegible] ... [illegible]

n. 24. [illegible] ... [illegible]

Quare [illegible] [illegible] et aliis [illegible] [illegible] [illegible] in [illegible] [illegible] [illegible] cap. [illegible] [illegible]

[illegible] de [illegible] absoluamus animam [illegible] [illegible] [illegible] [illegible] [illegible] et [illegible] non habentes generalis administrat. absque speciali mandato in integrum [illegible] [illegible] ut [illegible] in [illegible] cap. [illegible] [illegible] et aliis interrelatis a [illegible] ubi [illegible] [illegible] [illegible] [illegible] in [illegible] cap. [illegible] personam generalem [illegible] [illegible] de sindico [illegible] [illegible] [illegible] [illegible] sindico creare debet, [illegible] [illegible] [illegible] [illegible] sindici nomine [illegible] [illegible] speciale mandatum [illegible] in integrum restitutionem postulare [illegible] [illegible] [illegible] =

n.o 25. Deinde [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] hoc [illegible] [illegible] in integrum restitutionem qui [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] sine alterius fratris mandato [illegible] [illegible] restitutionem in integrum [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] speciale mandatum ad hoc [illegible] [illegible] [illegible] [illegible] [illegible] = [illegible] difficultatem [illegible] [illegible] [illegible] cap. [illegible] [illegible] [illegible] ideo sine alterius fratris mandato [illegible] [illegible] remedium in integrum restitutionem postulare, [illegible] [illegible] [illegible] ad agendum debet [illegible] [illegible] speciali mandato [illegible] [illegible] specialiter [illegible] [illegible]. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] ad [illegible] restitutionem in integrum admittere [illegible] [illegible] [illegible] [illegible] nisi [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] ex decis. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] resoluit. [illegible] [illegible] [illegible] mandato, [illegible] [illegible] ff. [illegible] [illegible] in quibus [illegible] [illegible] speciale mandatum ad agendum requiritur et ideo [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] speciali mandato restitutionem in integrum [illegible] [illegible]. Talibus [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] dissoluat [illegible] [illegible] [illegible] [illegible] [illegible] quo ille qui [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] in quo casus est. [illegible] [illegible] absque speciali mandato [illegible] [illegible] restitutionem in integrum postulari [illegible] [illegible] [illegible] [illegible] cap. [illegible] [illegible] [illegible] [illegible] [illegible] alterius fratris, [illegible] [illegible] [illegible] [illegible] remedium restitutionis in integrum [illegible]. [illegible] [illegible] [illegible] debet, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] mandato requirendo [illegible] admittatur absque speciali mandato, [illegible] [illegible] [illegible] [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] speciali mandato, [illegible] [illegible] cap. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] fratre [illegible] [illegible] mandato [illegible] in integrum [illegible] [illegible]. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] in [illegible] cap. [illegible] speciale mandatum [illegible], [illegible] [illegible] alterius fratre in integrum restitutionem [illegible] [illegible], [illegible] [illegible] [illegible] [illegible] in Decretalis Decisionibus [illegible] [illegible] [illegible] [illegible] ad [illegible] [illegible] [illegible] exiguntur, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] debet expendere an mandatum speciale [illegible]. [illegible] [illegible] [illegible] [illegible] versaretur [illegible] speciale mandatum [illegible], [illegible] [illegible] [illegible]. =

n.o 26.

lib. 2. tit. 1.

Materia de [illegible]

que [illegible]

años de [illegible]

Schedas. 21.

166[illegible]

Academica explanatio [illegible]

[illegible]

Praeludium

[illegible] magnorum [illegible] moderatoribus [illegible] academia [illegible] nobilitatem ac [illegible] illam [illegible] quae [illegible] et [illegible] [illegible]

[illegible] de [illegible] [illegible] [illegible] in [illegible] [illegible]

[illegible] publico [illegible] [illegible] [illegible]

[illegible]

[illegible] quatenus disponit res ad recte judicandum, et aut actus tendentis, quatenus ordinat accurate ad recte judicandum.

No. 3

Hoc igitur dicimus in [illegible] actu, judicium [illegible] debet intelligi [illegible] quis cum deliberatione exsequitur, verumque quatenus [illegible] controversiam [illegible] personis judicis actoris et rei [illegible] examinatur [illegible] expectat [illegible] inter actorem et reum [illegible] personas [illegible] debere in judicio judicis, actoris et rei. [illegible]

[illegible] de probationibus [illegible] judicium [illegible] explicatur [illegible] judicaria [illegible] dicatur [illegible] executio. Facit [illegible] de appellat. [illegible] de judiciis [illegible] tractant de judicio [illegible]

No. 4

Hic proponenda venit judicii definitio. Et licet [illegible] [illegible] ordinari [illegible] definitio judicii [illegible] actorem et reum [illegible] judicem [illegible] ordinem [illegible] judicandi [illegible] de re judicata [illegible] judicium [illegible] definitionem [illegible]

No. 5

[illegible] dicimus judicium tribus [illegible] personis [illegible] actoris, rei, et judicis [illegible] judicio [illegible] testis [illegible] judicio [illegible] necesse [illegible] dicimus testes [illegible] de forma substantiali judicii, nec [illegible] fol. 409. [illegible]

Marginalia:

[illegible] judicium [illegible] personis [illegible] opponitur.

Prosequitur [illegible]

[illegible] 23 [illegible] in vol. [illegible] v. 12.

excep. [illegible]

Sed tamen [illegible] [illegible] de [illegible] [illegible] [illegible]
n. 9. Aut tamen necessarius [illegible] accusator [illegible] adesse [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
quo supposito intelligque [illegible] [illegible] [illegible] Respondemus [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] ut statuat [illegible]
aliter [illegible] posse nisi [illegible] [illegible] [illegible] [illegible] ut [illegible] [illegible] [illegible]
accusat [illegible] [illegible] ut [illegible] est [illegible] accusatores [illegible], aut testes [illegible]
[illegible], vel accusatores [illegible] [illegible] 4. [illegible] 4. [illegible] [illegible], 1° ut [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 6. [illegible] C. de postulando. [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] accusatores [illegible] 2° et 3° [illegible] [illegible]
[illegible], aut [illegible] falso testimonio. [illegible] [illegible] [illegible] [illegible] [illegible] testes
aut judex [illegible] [illegible] [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 24. =

[illegible] [illegible] [illegible] [illegible] [illegible] difficultate [illegible] [illegible] 10 §.

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible], judex accusator, reus [illegible] testes: ex quibus [illegible] [illegible] [illegible] [illegible]
[illegible], testes [illegible], ac [illegible] [illegible] contrarij statuere. [illegible] hac [illegible] [illegible]
[illegible] [illegible] [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] quatenus [illegible] [illegible]
testium [illegible] judicio, [illegible] judicem [illegible], [illegible] [illegible] non [illegible] testes de necessitate
[illegible] ut judicij [illegible] [illegible] de necessitate [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible], [illegible] veritatis [illegible], ut tradit [illegible] [illegible] [illegible] [illegible]. Quemadmodum [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] de rebus [illegible], [illegible] ita [illegible] [illegible] [illegible], [illegible] [illegible]
tenetur tamen necessitate [illegible] si [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
judicio, [illegible] 8. § [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible], ac [illegible] [illegible] [illegible] tradunt [illegible] [illegible] [illegible] =

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] de probationibus
[illegible] [illegible] [illegible] [illegible] [illegible], [illegible] debent [illegible], [illegible] [illegible] [illegible] [illegible]
[illegible] judicio, [illegible] [illegible] [illegible] semper adhibeat, aut [illegible], [illegible] habere perso
[illegible], aut duos [illegible] idoneos, qui [illegible] [illegible] judicij acta [illegible]. [illegible] [illegible] [illegible]
[illegible] personas [illegible] [illegible] [illegible] notarij [illegible] acta [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] testes, [illegible] praesentis tabellionis [illegible] de forma
substantiali [illegible] [illegible] ut [illegible] [illegible] [illegible] [illegible] [illegible], [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible], ut docent [illegible] [illegible] [illegible] [illegible]
n. 4. [illegible] [illegible] [illegible] 175. n. 3. quo supposito [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] notarius [illegible] [illegible] [illegible] [illegible], intelligatur [illegible] [illegible] [illegible]
judiciorum, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] de necessitate [illegible] [illegible]
[illegible] [illegible] [illegible]. n. 1095. n. 5. [illegible] [illegible] [illegible] [illegible] n. 125 [illegible]
[illegible] [illegible] [illegible] n. 9. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] n. 6. =

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] Denique ex [illegible] definit[illegible] [illegible] [illegible] [illegible]
[illegible] accusationibus [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] inquisitionum [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] proferat [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

Judex &c. [illegible] [illegible] [illegible] [illegible] [illegible] = [illegible] [illegible]
[illegible] [illegible] [illegible] Alvarado de Ordine judiciorum [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] judiciis inquisitionum [illegible] [illegible] [illegible]
accusatorem [illegible] [illegible] [illegible] [illegible] [illegible] accusatorem [illegible]
[illegible] [illegible] [illegible] [illegible] accusatorem [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
accusat. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] =

n. 9.

Extrajudiciales [illegible] [illegible] [illegible] definitionum explicat[illegible] [illegible] [illegible]
et [illegible] extrajudiciales, et judiciales. [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] judicij [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] extrajudiciale [illegible] [illegible] [illegible] [illegible]

Quid decretum [illegible] [illegible] [illegible] [illegible] [illegible] creditores [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] Garcia de benef. [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] territorium [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] territorij [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] =

n. 10.

De [illegible] [illegible] [illegible] Deinde explicandi [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] = [illegible] [illegible]

[illegible] admonit. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] = [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] = [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

§. 2°. C. de iudiciis [illegible] Vulg. nec [illegible] iudiciis accepere [illegible] tur L. 11. Romae [illegible] §. 1. [illegible] de legatis 1°. et adducunt Panormitanum [illegible] 4. Decius [illegible] adhuc n. 50. [illegible] et alii antiquiores [illegible] Vanellus [illegible] 17 [illegible] cap. 48. [illegible] [illegible] de iudiciis et alii [illegible] quos refert et sequitur Fachineus [illegible] 11. [illegible] cap. 84. [illegible] =

n°. 11.

Interea [illegible] controversia omissa [illegible] facilius [illegible] nouaque [illegible] decreta [illegible] Placet dicere [illegible] quale [illegible] iudicium [illegible] ex [illegible] de probationibus [illegible] §. 1°. C. de iudiciis [illegible] [illegible] lite pendente [illegible] cap. [illegible] [illegible] lite pendente [illegible] quoad [illegible] effectum [illegible] iudicii [illegible] ad [illegible] C. de litis [illegible] de lite [illegible] [illegible] [illegible] de [illegible] [illegible] litis [illegible] [illegible] iudicium [illegible] delegati [illegible] [illegible] affirmat [illegible] edicto [illegible] [illegible] [illegible] ad [illegible] de iudiciis [illegible] 22 [illegible] docent [illegible] Vanellus [illegible] 24 [illegible] cap. 1°. Parladorius [illegible] cap. 14. et alii plures quos [illegible] [illegible] =

n° 12

[illegible] de iudiciis [illegible] [illegible] iudicii [illegible] [illegible] iudicii publici [illegible] ordinarium [illegible] iudicii [illegible] de illis iudiciis [illegible] actionibus [illegible] L. 2. §. [illegible] de [illegible] [illegible] tribunal sedentes [illegible] iudices [illegible] controversiis [illegible] [illegible] formulis [illegible] L. 2. C. de edendo [illegible] iudicibus [illegible] formula [illegible] iudicii [illegible] §. 1°. [illegible] de interdictis [illegible] Vanellus [illegible] 27 [illegible] cap. 4 [illegible] Vanellus [illegible] =

Proponitur [illegible] iudiciis =

de iudiciis [illegible] =

Iudiciorum divisio proponitur n.º 13

Noviorem iuris iudicia sequens [illegible] iudiciorum divisio placet. Sunt enim alia iudicia civilia, alia criminalia, alia mixta, alia denique criminalia civiliter intentata. = Iudicia civilia dicuntur in quibus tantummodo agitur de re pecuniaria, veluti [illegible] ex mutuo commodato, deposito [illegible] et [illegible] examinata [illegible] hoc [illegible], quamvis civilia erunt quamvis in modis exceptionis crimen [illegible] incidat, veluti [illegible] delicto opponitur actori aut testi, [illegible] quemadmodum de ordine [illegible], [illegible] de exceptionibus [illegible] accusat. L. [illegible] 11. ff. de his qui notantur infamia, adhuc enim civilia iudicia manent, [illegible] [illegible] principaliter [illegible], et merito civilia appellantur, quia [illegible] more civili, [illegible] decet tractantur, L. Capitalium 28 §. incendiarii ff. de poenis, [illegible] criminalibus iudiciis [illegible] ff. de furtis [illegible] ff. de privatis delictis, in quibus [illegible] [illegible] inquiritur, [illegible] minatur. L. Locatio 9. §. 9. Illicite ff. de publicanis et vectigalibus = Iudicia criminalia [illegible] [illegible] principaliter de crimine tractatur ad vindictam publicam [illegible] ff. de [illegible], [illegible], [illegible] [illegible] et [illegible] [illegible] [illegible] ff. de [illegible] [illegible] [illegible] de quibus [illegible] tractant [illegible] [illegible] Marsilius de ord. iudiciorum [illegible] n.º 22 [illegible] [illegible] 107. n.º 1. [illegible] [illegible] [illegible] [illegible] =

n.º 14

Iudicia mixta civilia et criminalia [illegible] civiliter intentata [illegible] = Iudicia mixta [illegible] participant de [illegible] criminalibus, et civilibus [illegible] tractatur in eadem [illegible] ad publicam vindictam [illegible] [illegible] [illegible] [illegible] [illegible] L. Locatio §. 9. illicite ff. de publicanis et vectigalibus, et in omnibus iudiciis [illegible] [illegible] aut aliis [illegible] [illegible] [illegible] n. 13. et 15. [illegible] 26. [illegible], et in aliis quam pluribus [illegible] [illegible] [illegible]. [illegible] [illegible] [illegible] [illegible] [illegible], sed [illegible] [illegible] [illegible] [illegible] ad integram [illegible] [illegible] [illegible] [illegible] accusatore, [illegible] accidentaliter [illegible] particulariter [illegible] [illegible], sed illud adhuc criminale [illegible] [illegible]. L. [illegible] 25. [illegible] ff. ad [illegible] = Denique [illegible] criminalia civiliter tractata dicuntur in quibus licet principaliter de crimine [illegible] [illegible], [illegible] ordinantur ad civilem actionem [illegible], ut [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] in quibus tantummodo [illegible] [illegible] [illegible] [illegible] civiliter dicuntur, [illegible] criminaliter [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] n.º 22 [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] in quibus ordo regularis [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] in quibus [illegible] veritate [illegible] [illegible] procedit [illegible] [illegible] [illegible], [illegible] iudicii [illegible] [illegible] [illegible] =

n.º 15

Quaeritur an causa [illegible] [illegible] [illegible] de simonia, [illegible] [illegible] [illegible]

Sed adversus [illegible] [illegible] [illegible] [illegible] [illegible]. 1.º [illegible] [illegible] [illegible] [illegible] de simonia, [illegible] [illegible] simoniae tractatur, in qua [illegible] [illegible] [illegible] [illegible] [illegible] removetur, et [illegible] iudicium illud appellatur civile [illegible] criminale. = 2.º [illegible] [illegible] [illegible] [illegible], [illegible] agitur de crimine adulterii [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible], [illegible] [illegible] [illegible] quam mixtum appellatur inter criminale et civile, et in [illegible] [illegible] [illegible] [illegible] pecuniariis [illegible], nec [illegible] [illegible] publicam vindictam [illegible], [illegible] [illegible] poena pecuniaria [illegible] [illegible] adiudicatur. [illegible] [illegible] [illegible] criminale, et mixtum [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]. = [illegible] [illegible] [illegible] Respondemus [illegible] [illegible] [illegible] [illegible] [illegible] de simonia [illegible] [illegible] [illegible] [illegible], sed [illegible] [illegible]

[illegible]

damnosus [illegible] removeretur ab off.º ut ex [illegible] testes constat, quia [illegible] de [illegible] monasterij
tractabatur ut sibi [illegible] [illegible] quod ex [illegible] [illegible] obvenire poterat, [illegible]
[illegible] illud Civile [illegible] Criminale arg.º [illegible] l. Imperator [illegible] ad Trebell. [illegible] Certaue [illegible]
soluto matrimonio = [illegible] difficultati [illegible] [illegible] [illegible] in [illegible]
[illegible] quoniam accusatio adulterij [illegible] ad matrimonij separationem [illegible] in foro ecclesiastico [illegible] Criminalis
[illegible], et Civilis [illegible] habet, [illegible] mixta [illegible], criminalis, et Civilis intelligitur [illegible]
effectus [illegible] mixto considerari solent, [illegible] [illegible] Thomas Sanchez [illegible]
matrimonio [illegible] Cum [illegible] =

n.º 16.

Denique [illegible] Quarum [illegible] [illegible]
officialis [illegible] 22. [illegible] [illegible], [illegible] criminis [illegible]
negligens in vindicanda morte defuncti a quo [illegible] fuit, affirmat huiusmodi causam esse pecuniariam
[illegible] consequentiam ad quam [illegible] Crimen [illegible] de [illegible] l. [illegible] de [illegible]
[illegible] [illegible], [illegible] [illegible] [illegible] [illegible] pecunia
[illegible] Civile [illegible] significat [illegible] de [illegible] [illegible] adhiberi [illegible] de [illegible], [illegible]
[illegible] a nobis designata est = Hanc difficultatem ut dissolvam [illegible] [illegible]
[illegible] [illegible] nomine habetur causa pecuniaria, in [illegible] illud exponere ut [illegible]
ficat [illegible] [illegible] [illegible] accipiendum est, [illegible] significat causam Criminalem Civiliter [illegible]
[illegible] veluti cum de crimine agitur ad [illegible] [illegible], [illegible] significat causam Criminalem, veluti [illegible]
tractatur de pena pecuniaria fisco applicanda. [illegible] [illegible] [illegible] [illegible]
[illegible] causa Criminalis [illegible] causam Criminalem [illegible] pecuniariam fisco applicandam [illegible]
[illegible] [illegible] [illegible], [illegible] Crimen [illegible] [illegible]
criminale [illegible] [illegible] fuisse [illegible] pecuniaria [illegible] [illegible]
[illegible] docet [illegible] [illegible] [illegible] =

n.º 17

Sed adversus hanc [illegible] [illegible]
[illegible] de [illegible] Crimina [illegible], [illegible] [illegible] [illegible], [illegible]
[illegible] [illegible] omnia Crimina morte [illegible] [illegible] [illegible] [illegible]
[illegible] de accusat. l. Crimen 26. [illegible] [illegible] aperte affirmat [illegible] illud [illegible]
[illegible], [illegible] [illegible] difficilis [illegible] = [illegible] hanc [illegible]
[illegible] [illegible] [illegible] [illegible] C. ne [illegible] [illegible]
[illegible] [illegible] [illegible] ab heredibus [illegible], [illegible] [illegible]
[illegible] erat, ut [illegible] affirmat [illegible] rei persecutionem, [illegible] actionem ex delicto descendentes [illegible]
principaliter [illegible] pecuniaria [illegible] applicanda fisco rei persecutoris [illegible] [illegible]
[illegible] [illegible] ut [illegible] [illegible] [illegible] heredes [illegible]
[illegible] [illegible] in lege [illegible] heredes [illegible] [illegible]
corporalis [illegible] delinquentis [illegible] [illegible] = [illegible] notandum [illegible]
[illegible] [illegible] affirmavit [illegible] post [illegible] [illegible] pecuniaria [illegible]
[illegible] [illegible] [illegible] ultra [illegible] accusationem [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] pecuniariam ad [illegible] accusationem [illegible]
ultra quinquennium [illegible] [illegible], [illegible] [illegible] [illegible] [illegible]
[illegible] rei persecutoriae [illegible] [illegible] [illegible] [illegible]

[illegible]

[illegible] [illegible] defendij [illegible] [illegible]
nomine in [illegible] omnia, [illegible] [illegible] [illegible] [illegible] ad [illegible] [illegible]

et ad [illegible] secundum iudicis, in quibus [illegible] observari [illegible] formulis; quas [illegible] Dridionus tit. 5. de formulis [illegible], nonnihil [illegible] sublatis [illegible] cap. examinata [illegible] unica Cod. de formulis, et impetrationibus actionum sublatis, et [illegible] meliorem formam redacta [illegible] lege [illegible] quae continetur [illegible] cap. Quoniam [illegible] de probat. [illegible] explicatur in toto hoc tit. V. Decret. [illegible] Menochius [illegible] de [illegible] iudiciis [illegible] videatur [illegible] lege 1. tit. [illegible] ordinamentis alij plures quos refert et sequitur Thomas Carlevalius de iudicijs tomo 1. tit. 1. disp. 1. [illegible] aliud adnotavit [illegible] celebrari inter litigantes [illegible] adducit quae [illegible] Specul. 3. §. [illegible] de speculo [illegible] nam licet [illegible] filio, ita [illegible] ex [illegible] dicto quaerit [illegible] quaedam [illegible] novatis novaque adiici [illegible] bonis [illegible] lege 1. C. de iudicijs. [illegible] expectantur [illegible]

Quo ipsius videndum est. Nos tamen [illegible] hic [illegible]

Quo illa, quibus [illegible] ut [illegible]

Quin decreta Pontificia exponenda veniunt:

Quin [illegible] faciamus:

Solemnis Repetitio

[illegible] cap. de quod [illegible]

Inde [illegible] designanda [illegible] Varie reperit scriptura: alij nimirum [illegible] ex [illegible] Lateranensi Concilio Generali, [illegible] Romae indesignant, alij vero docent ex Concilio Provinciali [illegible] fuisse, [illegible] Vero [illegible] omissis dicimus [illegible] expunctum Collect. diversorum Conciliorum Provinciae Africanae inserta in [illegible] Concilio Milevitano sub Aurelio Carthaginensi, ut docet Baronius anno [illegible] Severinus in Collectione diversorum Conciliorum Provinciae Africanae [illegible] et post ipsos [illegible] tit. 2. observation. Juris Canonici cap. 3. cui [illegible] eruditis [illegible] [illegible] affirmat, V. adversarij [illegible] quod [illegible] litigare [illegible] introduci [illegible] nec [illegible] velle [illegible] effectu [illegible] quod [illegible] respondit [illegible] quod [illegible] placitum [illegible] ut nullus [illegible] dolo [illegible] [illegible] adversarium [illegible] inducere [illegible] et [illegible] fore. =

[illegible] quae [illegible] 21. quae [illegible] litigantibus adduci solet [illegible] tit. [illegible] [illegible] iudicio litigare, [illegible] privari [illegible] beneficio [illegible] debet. [illegible] cap. 1. [illegible] quoniam [illegible] cap. 2. [illegible] de dolo et contumacia cap. [illegible] 12. de [illegible] cap. 9. [illegible] de [illegible] cap. [illegible] 7. [illegible] de decimis, cap. [illegible] 12 [illegible] cap. 14 [illegible] cap. ult. [illegible] cap. [illegible] 49 [illegible] cap. [illegible] 11. [illegible] de regularibus [illegible] [illegible]

[illegible] 1° [illegible] 3. [illegible] disputat[illegible] 4. [illegible] Navarrus in manuali c. 27. Nicolaus Garcia de benef. [illegible] 7. [illegible] cap. 13. n. 90 [illegible] Richardus in 4. [illegible] de interdictis [illegible] 77. Paul. in praxi [illegible] c. 3. n. 5. [illegible] Germonius [illegible] 1° [illegible] Gironius [illegible] cap. 9. [illegible] Barbosa [illegible] 202.

n. 2. [illegible]

Corr[illegible] [illegible]

[illegible] Imperatoris [illegible] de aequivalentibus [illegible]

n. 3. [illegible]

Propositio 2.ᵃ

n. 4. [illegible]

Propositio 3.ᵃ

n. 5. Denique [illegible]

Propositio 4.ᵃ [illegible]

n. 6. [illegible]

Verissimum [illegible]

Quid, et quid sit contumacia [illegible]

[illegible] animadvertimus contumaciam [illegible] [illegible] obedire [illegible] vel consiliis [illegible], et [illegible] tenetur, contempserit, ut [illegible] cap. 2º de iudic., et contumacia [illegible] [illegible] 24. [illegible] contumacia [illegible] de re iudicata [illegible] contumacia [illegible] [illegible] si quis [illegible] dicere [illegible] contemptus [illegible] [illegible] delictum [illegible] iudicatur, [illegible] contumaces [illegible] cap. 2º de [illegible] [illegible] de appellat. [illegible] cap. [illegible] contumacia [illegible] [illegible] [illegible] [illegible] §. 9. nº 3º. Navarr. in manuali cap. [illegible] nº 35 Menochius [illegible] et alii [illegible] [illegible] de delictis [illegible] [illegible] [illegible] contumacia aut [illegible], aut [illegible] [illegible], vel [illegible] [illegible] [illegible] contumacia [illegible] [illegible] cap. de [illegible] [illegible] 7. §. [illegible] [illegible] 6. cap. [illegible] 23. [illegible] de [illegible] [illegible] quoties citatus ad [illegible] [illegible] iudice [illegible], vel [illegible], aut [illegible] [illegible] [illegible] cap. 2º de iudic., et [illegible] [illegible] in Clem. unica [illegible] [illegible] [illegible] cap. 7. §. 7. [illegible] [illegible] tract. [illegible] 1º cap. 9. [illegible] =

nº 7

quid [illegible] ad [illegible]

[illegible] [illegible] [illegible] [illegible] peccato mortali [illegible] gravissimo [illegible] inobedientia, et [illegible] [illegible] [illegible] obedire [illegible] Matthæi cap. 18, [illegible] [illegible] cap. [illegible] 21 [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] ac [illegible] [illegible] nulla [illegible] [illegible] sed mera [illegible] ut [illegible] temporalis [illegible] [illegible] [illegible] illud Pauli 1º ad Corinthios [illegible] spiritus [illegible] [illegible] [illegible] [illegible] admonitio [illegible] [illegible] cap. [illegible] 26. [illegible] [illegible] peccator [illegible] [illegible] [illegible] cap. [illegible] 41, [illegible] [illegible] est [illegible] pro mortali culpa [illegible] [illegible] [illegible] cap. [illegible] de [illegible] [illegible] Theologicis [illegible] 18, [illegible] 22. [illegible] art. 1º [illegible] [illegible] 2º [illegible] 13. [illegible] cap. 17. [illegible] 4º [illegible] Navarr. [illegible] =

nº 8

[illegible] [illegible] doctrinæ [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] auctorem libelli [illegible], [illegible] cap. [illegible] [illegible] cap. publicavit 30. [illegible] cap. [illegible] [illegible] 36. [illegible] cap. [illegible] 1º 27 [illegible] [illegible]

[illegible] [illegible] [illegible]

[illegible] [illegible] pro [illegible] [illegible] [illegible] contumacia, [illegible] [illegible] [illegible] [illegible] [illegible] ad [illegible] [illegible] [illegible] = [illegible] [illegible] tanquam [illegible] [illegible] [illegible] cap. quidem [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] facere satisfactionem [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] cap. [illegible] 31. [illegible] [illegible] ad [illegible] [illegible] [illegible] vel illud [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] vel [illegible] illud [illegible], ut docent [illegible] et Navarrus [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible], atque ideo [illegible] ad [illegible] [illegible] solet [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] =

[illegible] [margin note]

n.° 9 [illegible] Venerabilibus § porro [illegible] excommunicationis [illegible] [illegible] Venerabilibus § porro [illegible]

n.° 10 [illegible] Venerabilibus § porro [illegible]

n.° 11 [illegible] [margin note]

[illegible]

[illegible] cap. [illegible] 18. cap. [illegible] 12 de [illegible] cap. [illegible] Thom. [illegible] 2. in [illegible] decalogi cap. 31. n. [illegible] alij plures [illegible] in Collect. ad [illegible] 44. 28 [illegible] n. 7. Cum [illegible] =

n. 12

Quinto animadvertimus [illegible] in [illegible] Civili, aut Criminali [illegible] fuisset [illegible] licet [illegible] re dissentiant [illegible] Clerico, vel [illegible] Civili [illegible] vero [illegible] in causa Civili, vel civiliter [illegible] in causa Criminali [illegible] 32. [illegible] de [illegible] licet [illegible] in tempore, de quo [illegible] ex [illegible] causa Criminali [illegible] admonitio [illegible] debet, in Civili [illegible] in Africa ad Concilij [illegible] docent hanc doctrinam [illegible] [illegible] n. 10. et 5. [illegible] in Collect. ad [illegible] in Collectad [illegible] = Nec [illegible] obstat illud [illegible] adversarij, quod civiliter agens [illegible] cap. [illegible] de procuratoribus, consult. [illegible] [illegible] l. [illegible] 9. ff. de [illegible] accusator [illegible] ad [illegible] Criminali [illegible] capitulo [illegible] Beneficio l. [illegible] 6. [illegible] ff. de muneribus, et honoribus, [illegible] licet [illegible] per [illegible] exceptionibus [illegible] alij [illegible] adore, [illegible] ut [illegible] Leonardus [illegible] 2. [illegible] cap. 5. adversarij [illegible] qui Concilio [illegible] quocumque [illegible] cap. [illegible] de fide instrumentorum [illegible] [illegible] =

n. 14

Sexto [illegible] observamus causas Episcoporum Criminales, nec [illegible] [illegible] in Concilio Provinciali, aut [illegible] cap. 2. [illegible] 6. cap. [illegible] 5. [illegible] 1. [illegible] in [illegible] Capitulo; [illegible] Concilij Africani [illegible] ad [illegible] Provinciale [illegible] cap. [illegible] 4. 18. [illegible] = [illegible] Criminali [illegible] aut depositum aut privationem [illegible] ad [illegible] et [illegible] in Synodo [illegible] Trid. [illegible] 24. cap. 5. de reformat. [illegible] de [illegible] Nec [illegible] [illegible] [illegible] demonstrare, [illegible] interrog. [illegible] debere multis exceptionibus = 1. [illegible] [illegible] [illegible] accusatoribus [illegible] [illegible] aut [illegible] excusat. cap. [illegible] 16. 2. [illegible] = 2. ut Certificaretur [illegible] [illegible] Episcoporum [illegible] ad Concilium [illegible] in [illegible] Africana aut Coram Concilio Provinciali, aut Coram [illegible] Episcopis [illegible] erant [illegible] in arbitrio [illegible] appellari [illegible] [illegible] placuit 95. [illegible] Provinciarum, [illegible] cap. [illegible] 46. [illegible] 11. [illegible] cap. [illegible]

n. 16

Ad haec [illegible] [illegible] [illegible] [illegible] appellandi [illegible] Africana [illegible] [illegible] appellare licet [illegible] 93. [illegible] 6. cap. [illegible]

Vallici notent [illegible] de [illegible] ut [illegible] 4 [illegible] = [illegible]

[illegible] quoniam [illegible] [illegible] recepta [illegible]

[illegible] 27. [illegible]

[illegible] ut observant [illegible] n.º 4. [illegible] generale, [illegible]

[illegible] 15. [illegible]

[illegible] notorius [illegible] [illegible]

[illegible]

[illegible] n.º 2. [illegible] =

n.º 6 [illegible]

[illegible] quoniam [illegible]

[illegible]

[illegible]

[illegible]

[illegible] 133 [illegible] =

[illegible]

[illegible]

[illegible]

[illegible] 44 [illegible]

[illegible] 17 [illegible]

[illegible]

[illegible]

[illegible] 4 [illegible]

[illegible] 12 [illegible] 49 [illegible] =

n.º 17 [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] 27 [illegible]

[illegible]

[illegible] =

n.º 20 [illegible]

[illegible]

[illegible]

extracto modo actio nascitur, donec veniat quae [illegible] in pacto, omnino [illegible] necesse est, sed sufficit ad producendam actionem [illegible] ... [illegible] reconciliationis, discedens a pacto modo [illegible] judicium [illegible] judicium [illegible] stare [illegible], nec [illegible] solvendo interesse, quoniam licet [illegible] liberi, ut [illegible] diximus, [illegible] Canonico [illegible] facti [illegible] tabellionibus [illegible] instrumentis [illegible] ... ut tradit [illegible] part. [illegible] 4. n.° 14. Antonius [illegible] ... Gutierrez [illegible] 19. n.° [illegible] Greg. Lopez [illegible] ... Collect. [illegible] Decretales [illegible] 31. n.° 5. [illegible] ... [illegible] interesse [illegible] ... [illegible] =

n.° [illegible]

Nec magis obstat [illegible] ... [illegible] necesse est ad [illegible] ... [illegible] cap. [illegible] cap. 12 n.° 17. [illegible] ... [illegible] Romana [illegible] cap. [illegible] ... [illegible] =

n.° 20

[illegible] obstat 2 [illegible] auctoritatibus [illegible] ... [illegible] absolutio [illegible] ... [illegible] Roma [illegible] ... [illegible] absolvere [illegible] ... [illegible] absolutionis [illegible] ... [illegible] Concilii [illegible] ... [illegible] Apostolicae [illegible] =

[illegible]

Sed [illegible] absolutio valeat, [illegible] ...

[illegible] absolutio [illegible] ... [illegible]

[illegible] ... forma [illegible] ... Vel absolvendi ... nullatenus ... de [illegible] ... Rota in causa ... Archidiaconi ... die 6. ... facultas absolvendi ... in Bulla Coenae ... absolutio ... [illegible]

... delegato ... de [illegible] ... absolutio ... [illegible]

art. 22

Deinde quaeritur ... dubitari ... [illegible]

De inopia seu impotentia, et in casu, ... [illegible] ... Emmanuel Rodriguez ... Bullae Coenae ... [illegible] ... art. ... [illegible]

... excommunicatio ... [illegible] ... cap. 12. =

art. 23

[illegible] ... excommunicatio ... [illegible]

De inopia, et impotentia excommunicati a patre.

[illegible]

+

[illegible] ... ut [illegible] habet.

[illegible]

... 7. de [illegible] ... canonicas cap. 12. ... [illegible]

n. 24

Nec quidquam [illegible] ... [illegible] ...

[illegible] ... episcopo [illegible] ...

[illegible] ... [illegible] ... episcopum [illegible] ...

[illegible] nec metropolitanus [illegible] ... Trid. [illegible] ...

nec [illegible] personaliter [illegible] ... Trid. ... cap. [illegible] ...

[illegible] erat [illegible] ...

[illegible] tempora [illegible] ... episcopi in [illegible] ...

[illegible] ... fol. [illegible] ... et post [illegible] ...

[illegible] ... cap. [illegible] ...

[illegible] ... et [illegible] ... n. [illegible] ...

[illegible] ...

[illegible]

Denique [illegible] ... proposita [illegible] ...

n. 25

[illegible] ... [illegible] ...

[illegible] ...

[illegible] ...

[illegible] ...

[illegible] ... forte [illegible] ...

[illegible] ... cap. [illegible] ...

[illegible] ...

[illegible] ... n. 14 [illegible] ...

[illegible] ... cap. [illegible] ...

[illegible] ... n. 12 [illegible]

n. 26

[illegible] ...

[illegible] ...

[illegible] ...

[illegible] ...

[illegible] ...

[illegible] ...

[illegible] ...

[illegible] ... de absolute [illegible] ...

[illegible] ... cap. ex litteris [illegible] ...

[illegible] ...

[illegible] ... cap. [illegible] ... 12. 16 et 17. [illegible] ...

[illegible] ...

[illegible] ...

[illegible] ...

[illegible] ...

[illegible] ... cap. [illegible] ...

[illegible] ... cap. [illegible] ...

[illegible] ...

n. 27

Quapropter [illegible] ...

ex litteris [illegible] ...

[illegible]

ex reatu, vel recipiendum absque propria absolut., quam ipse [illegible] accipiendam de [illegible] premissis, quae diu [illegible] ad illius formam [illegible], quam [illegible] [illegible] absolutionis Censura [illegible] docet Suarez [illegible] sect. [illegible] n. 10. = Nec huic [illegible] obstant [illegible] cap. [illegible] 16. q. 7. [illegible] [illegible] [illegible] absolut., [illegible] intelligi [illegible], [illegible] Censura [illegible] sufficiens [illegible], [illegible] Censura [illegible] [illegible] = [illegible]

[illegible] cap. [illegible] 18. [illegible] =

Cap. 26. [illegible] [illegible] Censura [illegible] cap. [illegible] 10. [illegible] 6. [illegible] Thesaurus [illegible] 10. = [illegible] Censura [illegible] =

Cap. 29. [illegible] cap. [illegible] 17. [illegible] cap. [illegible] cap. [illegible] 16. sect. [illegible] cap. [illegible] cap. 41. [illegible] cap. [illegible] 29. n. 251. = [illegible]

[illegible]

- annuatiōnis iuris dictionis Cardinali ad absolutionem cedendi ... [illegible] ... ut ... in re inspecto quo et satisfactio, et absolutio requiritur praesente ... absolutionis, ut ... Rotae ... Italiae. =

nº 80

Explicat cap. 1 de off. Vic. et ... [illegible]

Explicandum venit difficile Alexandri ... decretum relatum in cap. ... fronte 25. § 1 de appellationibus, ubi respondetur quando excommunicatus pro contumacia, vel offensa, ... se ad satisfactionem ... excepit, et adversarius appellat ne absolveretur, quod ... fuit quaesitum utrum ... ex illum absolvere debeat, ... respondit praedictus Pontifex ... absolutio ... si pars adversa appellat interposuerit ne absolveretur, et ... in excommunicatione decedat, ... tamen cautionem sufficientem ... deponi ... habendo; Ex quo decreto ... colligitur excommunicatus pro contumacia sola ... absolvendum ... satisfactionis, ... satisfactio ... absolutus ... ab excommunicatione ... utrumque necesse est. = Quam difficultatem ut dissolvamus ... solutionibus ... antiquioribus, breviter dicimus ... excommunicatio ... sola contumacia ... Primo ... manifestum ... satisfactio ... cap. ... de appellat. cap. ... decret. excommunicat. ... absolutio ... excommunicat. ... dubia ... Pontifex noluit ... absolutio ... cap. quod ... procedit quando manifeste ... contumacia, et ... absolutio debet ... satisfactio, ut ... dicimus, ... cap. 5. nº 65. =

nº 81

[illegible] ... interim ... Celestini ... decretum ... in cap. ... de off. iudicis ordinarii, ubi ... excommunicatus ... delegato absolutus est, ... ulterius in causa procederetur, ... ordinarius ... absolutus ... excommunicatus ... causa ... in receptione testium, ... Ex quo decreto duo valde difficilia colligi videntur. ... excommunicationis ... pro peccato ... absolutus ... cap. ... nº 44 ... tradita. 27 ... absolutio ... ab excommunicatione ... in receptione testium ... progressus. ... absolutus ... excommunicatione ... satisfactio ... ut ... Barbosa ... allegat. 226. nº 26 ... ut ... facile ...

nº 82

Quamvis ... difficultates ... dupliciter ... 1º dicendo ... cap. ... parochiani ... prohibitio ... tanquam ... permanentes excommunicatione ... contumacia ... = Vel dicimus ... pro manifesto ... excommunicat.

consideraret in hoc suitte [illegible] servato ordine, et nulla adhibita causae probatione impetrarent litteras ad excommunicatorem, ut si ita esset, eos absolveret, alioquin delegatus mandabat [illegible] ut hoc facerent, et si quid per [illegible] remaneret, audiret, et quoniam excommunicator absolvere nollet, delegati absolutionis [illegible], [illegible] absoluti [illegible] quamvis excommunicator [illegible] probare [illegible] ipsius, idque declaraverit in dicem ordinarii [illegible], vel [illegible] superiore, remaneret [illegible] ... in formula [illegible] quorum [illegible] et contumaciam, et admonitionibus [illegible]; ut [illegible] tradunt Panormit. et Hostiensis [illegible] 4. — Secundum [illegible] difficultas facilius dissolvitur si dicamus [illegible], [illegible] tandiu [illegible] relaxatio [illegible]. Nec ita accipienda ut significent ex sola [illegible] comparitionem [illegible] excommunicatus cessare, sed ita potius accedente absolutionis beneficio [illegible] de quo in cap. a nobis 2° de sent. excommunicationis, tenebuntur [illegible] donec [illegible] reparantur, [illegible] acquisita absolutione, quam in forma juris [illegible], ut [illegible] diximus [illegible] 27. [illegible] —

n. 33. S[illegible] [illegible] cap. [illegible] [illegible] extra [illegible] excommunicatus [illegible] quam [illegible] habuit [illegible] expectantia [illegible] beneficio [illegible] Concilio Africano [illegible] excommunicatus, [illegible] procedi [illegible] — [illegible] difficultas [illegible] [illegible] pro [illegible] [illegible] et qualitate, [illegible] [illegible] decisionem [illegible] [illegible] Correctio [illegible] prohibita, [illegible] declaratio [illegible] 6. — Alii [illegible] respondent [illegible] Clerici [illegible] excommunicatus [illegible] celebrare, [illegible] irregularitatem [illegible] cap. [illegible] excommunicati [illegible] beneficio [illegible] cap. fraternitatis cap. [illegible] [illegible] confessio [illegible] [illegible] quam [illegible] [illegible] excommunicato [illegible] celebrante, sed potius de loquitur [illegible] sacramentum, et celebrat missam [illegible] sacrificium Deo [illegible] offerre [illegible] Celebrans [illegible] irregularitatem [illegible] [illegible] Calabrat. [illegible] excommunicato [illegible] docet [illegible] cap. [illegible] [illegible] [illegible] [illegible] [illegible] cap. [illegible] —

n. 34. [illegible] dicere [illegible] [illegible] correctus [illegible] et [illegible] apud Metropolitanum deberet, [illegible] separaret [illegible] appellationi [illegible] reconciliaret, [illegible] facere sed [illegible] [illegible] et separatim [illegible] schisma [illegible] missas Celebrare [illegible] [illegible] anathemat. [illegible] [illegible] [illegible] depositionis [illegible] cap. [illegible] 1. 23 [illegible] cap. [illegible] 70 [illegible] 1. 5 [illegible] cap. [illegible] 5. declarat. cap. [illegible] cap. [illegible] 6. [illegible] [illegible] Conceptus [illegible] Panormit. n. 10, [illegible], et post hos Falcero [illegible] [illegible] [illegible] [illegible] 1° et [illegible] excommunicato [illegible], [illegible] fuit processus, quoniam [illegible] coram patribus Concilii Africani [illegible] [illegible] accusatis, [illegible] in Cortalem, [illegible] [illegible] [illegible] [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]. —

n.º 95

S. intelligen[...] [illegible] alliis [illegible] in cap. decernimus [illegible]

[illegible] adeo negligerit, dilatus [illegible] de absentia [illegible], in quibus [illegible] pater Bonifacius [illegible] ad [illegible] decernimus [illegible] Criminalis [illegible], si ad [illegible] venire tempserit, tanquam de [illegible] Confessus [illegible] contumaciam [illegible] et successivis [illegible] quoniam ipsa [illegible] sententia pro confessa [illegible] [illegible] suam contumaciam [illegible] Synodo [illegible] debent quemadmodum factum fuit in d. cap. decernimus. = In hac difficultate dissolvenda [illegible] scriptores inter hos Augustinus Barbosa in cap. at si Clerici [illegible] n.º 8. [illegible] in d. cap. decernimus [illegible] quod [illegible] habere pro [illegible] interpretatione [illegible] probandi Crimen principale, sed ad [illegible] ut puniatur in principali, sed extraordinaria [illegible] contumacia, ex quo [illegible] [illegible] in cap. [illegible] 8. de dolo, et contumacia. Sed [illegible] respondendo [illegible] [illegible] dictis Capitibus decernimus, [illegible] a Judicibus [illegible] confessus, [illegible] qui Crimen confitetur ordinaria [illegible] punitur cap. at si Clerici 4. [illegible] cap. super[2] de confessis, cap. [illegible] speciali[61] §. porro de appellat. cap. Romana[3] §. [illegible]. =

n.º 96

Superiori itaque [illegible] [illegible] ibi [illegible] diximus [illegible] d. cap. decernimus [illegible] in solis [illegible] [illegible] in judicio, sed [illegible] Criminibus de quibus [illegible] de [illegible] mala [illegible] notato, [illegible] Cum objecta Crimina manifeste probari [illegible] fuit indicta purgatio Canonica certo termino [illegible] qui [illegible] ut [illegible] satisfaceret, [illegible] in judicio [illegible] et intra terminum [illegible] famam purgare noluerit, habetur pro confesso. [illegible] priorem [illegible] in [illegible] purgando intra terminum [illegible] [illegible] de Crimine [illegible] et [illegible] delegato Judici purgandi [illegible] ex cap. ult. de purgat. Canonica, et [illegible] 7. de [illegible] Clericus, et mulieres, quippe [illegible] de aliquo Crimine [illegible] Fama, [illegible] cap. [illegible] 2.º cap. quotiens [illegible] de purgat. Canonica [illegible] et compurgatoribus adhibitis [illegible] Crimen [illegible] purgationem Canonicam [illegible] cap. presbiter 13. cap. [illegible] 16. [illegible] cap. [illegible][11] cap. de [illegible][13] de purgat. [illegible] cap. [illegible][19] de accusationibus, et [illegible] Columbus coercetur ordinaria pena Criminis, cap. [illegible][13] [illegible] cap. accedens 23. de accusationibus, cap. [illegible] de adulteriis [illegible] [illegible] Contumacia [illegible] dignitatis [illegible] talia [illegible] [illegible] n.º 28. [illegible] cap. 24.

n.º 97

S. inferendum [illegible] memoria [illegible]

Itaque ordinarius [illegible] Clericus excommunicatus [illegible] [illegible] beneficio [illegible] [illegible] contumacia ex [illegible] = [illegible] difficultas [illegible] absolvere [illegible]. = [illegible] n.º 78 [illegible] Romanus [illegible] de plenitudine [illegible] Clerici [illegible] [illegible] [illegible] beneficiis [illegible] [illegible] hac solutio [illegible] [illegible] decimo, sed in sola perseverantia, [illegible] demonstrat. = [illegible]

no-

Respondent p[illegible] dicti [illegible] procedere [illegible] quo excommunicatus [illegible] ad ulteriora [illegible] aliquid [illegible]
[illegible] excommunicat, [illegible] beneficii [illegible] ante [illegible] cat [illegible] [illegible] excommunicatio [illegible] fiat [illegible]
[illegible] provenit, [illegible] refertur [illegible] accidit, [illegible] ad [illegible]
[illegible] tradit Cobb. [illegible] §. 7. n.° 10 [illegible] = Verum
[illegible] responsio [illegible] quoniam [illegible] dictis [illegible]
[illegible] ut patet ex [illegible] =

n.° 58. Cuius [illegible] ut [illegible] difficultatem [illegible]
[illegible] excommunicatis [illegible]
[illegible] excommunicatus [illegible] delegat [illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible] =

n.° 59. [illegible]
[illegible]
[illegible]
[illegible] =
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible] Nicolaus [illegible] =

n.° 60. [illegible]
[illegible]
[illegible]
[illegible]
[illegible] =
[illegible]
[illegible]
[illegible]
[illegible]

[illegible]

[illegible]

Explanatio ad Textum in cap. [illegible]

= [illegible] =

[illegible]

[illegible]

n. 3. [illegible] [illegible] et authoritate [illegible] Dominorum, [illegible] in [illegible] dubitationibus [illegible] [illegible] [illegible] [illegible] ecclesiasticum [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Concilii [illegible] [illegible] [illegible] cap. [illegible] cap. [illegible] 7. de [illegible] [illegible] [illegible] [illegible] excommunicationis cap. [illegible] [illegible] [illegible] cap. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] absolute [illegible] [illegible] =

Beneficii [illegible]

n. 4. [illegible] [illegible] [illegible] habetur [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] exercent, Clericique [illegible] [illegible] [illegible] [illegible] [illegible] cap. [illegible] cap. [illegible] de arbitris [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] ecclesiastica [illegible] [illegible] cap. generaliter 20. [illegible] [illegible] idem demonstratur [illegible] [illegible] Clericis [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] =

n. 5. [illegible] difficultas [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] ecclesiasticas spectantia ad judices ecclesiasticos decidenda et terminanda, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] divinis officiis, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 7. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] cap. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] cap. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] ecclesiastici [illegible] [illegible] terminarent [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] =

n. 6. [illegible] difficultas [illegible] [illegible] [illegible] [illegible] judices [illegible] [illegible] [illegible] ecclesiastici [illegible] [illegible] [illegible] [illegible] ecclesiasticis [illegible] obstante [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] judices ecclesiastici [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] administrare [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Clerici, [illegible] [illegible] Principibus [illegible] [illegible] [illegible] [illegible] [illegible] cap. [illegible] de [illegible] et [illegible] cap. [illegible] [illegible] [illegible] [illegible] Apostolus [illegible] [illegible] [illegible] cap. [illegible] [illegible] [illegible] [illegible] jure divino [illegible] [illegible] cap. [illegible] [illegible] [illegible] [illegible] cap. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] administrare [illegible] [illegible] [illegible] [illegible] proposita.

n. 7. [illegible] difficultatibus [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Civili, [illegible] ecclesiastica [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] utraque [illegible] [illegible] [illegible] [illegible] ad Romanos [illegible] [illegible] potestas nisi a Deo, et [illegible] potestas [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] ad [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 7. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] cap. [illegible] [illegible] [illegible] [illegible] [illegible] ecclesiastica [illegible] [illegible] [illegible] [illegible] [illegible] deponitur. =

n. 8. Itaque Iurisdictio, seu ecclesiastica potestas, [illegible] fuit a [illegible] commissa, et tradita Divo Petro, et eius Successoribus in illud Matthaei [illegible] Petrus et super hanc petram [illegible] [illegible] et Ioannis cap. ult. [illegible] pasce oves meas, [illegible]

[illegible] a Divo Petro et successoribus [illegible] [illegible] in [illegible] derivata est, [illegible] Romani Pontifices [illegible] provinciis, [illegible] Praelatos, Archiepiscopos, [illegible] Apostolicis qui curam [illegible] singulorum hominum [illegible] Petri, et successorum [illegible]

[illegible] Trident. sess. 14. cap. 7. sess. 24. [illegible] Divo Petro et successoribus [illegible]

[illegible]

n. 9. [illegible]

[illegible]

[illegible]

[illegible] Seculares Judices, qui tamen [illegible] in Causis Criminalibus [illegible] 12 [illegible] Codice Theodosiano, [illegible] a Valentiniano anno 377. ad Cataphronium [illegible] quae [illegible] [illegible] Post modum [illegible] Valentiniani [illegible] exemptio extenditur ad [illegible] Clericos [illegible] [illegible] [illegible] Carthaginense [illegible] anno 397. [illegible] Clericis [illegible] Criminalibus [illegible] [illegible] Valentinianus Junior, Gratianus, et Theodosius [illegible] Clericis in [illegible] Theodosiano [illegible] [illegible] 11. [illegible] [illegible] [illegible] [illegible] =

n.° 11.

Post [illegible] exemptio Clericorum [illegible] recepta, et [illegible] [illegible] in Concilio Generali Chalcedonensi [illegible] [illegible] [illegible] Clericus [illegible] [illegible] [illegible] [illegible] Concilio [illegible] anno 473. [illegible] [illegible] anno 492 [illegible] [illegible] Justinianus Imperator [illegible] [illegible] [illegible] [illegible] [illegible] 11. [illegible] [illegible] [illegible] [illegible] Concilio [illegible] anno [illegible] [illegible] Hispaniae in Concilio Toletano [illegible] 13. anno 589. [illegible] Concilio Lateranensi [illegible] anno 1517. et [illegible] Trid. [illegible] de reformatione capitulo, et [illegible] [illegible] [illegible] [illegible] Judices seculares [illegible] personas Ecclesiasticas [illegible] [illegible] [illegible] 27. n.° 69. [illegible] [illegible] Ecclesiasticis [illegible] [illegible] =

n.° 12.

[illegible] Ecclesiastica [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Trid. [illegible] 24. de reformatione c. 12. [illegible] 16. [illegible] [illegible] [illegible] Trid. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 44. et 45. [illegible] [illegible] 15. [illegible] 11. [illegible] [illegible] =

[illegible] Ecclesiasticam, [illegible] secularem [illegible] [illegible] [illegible] [illegible]

De [illegible] [illegible]

[illegible] Ecclesiastica [illegible]

[illegible] nullo [illegible], [illegible] Concordato [illegible]

[illegible] Bobadilla [illegible] = [illegible] Criminalis, sive Civilis, et saecularis [illegible] ad notandum =

n.º 13

§. [illegible] apud plures [illegible], tam Theologos, quam [illegible]

Quo iure Clerici sint exempti [illegible]

[illegible] Laici [illegible] Clerici [illegible] iudicare [illegible] Clerici sint exempti [illegible] Principum saecularium [illegible] exemptione, [illegible] iudicum Ecclesiasticorum [illegible] defendunt [illegible] [illegible] n.º 207. [illegible] tract. 97. q.º 35. [illegible] 5 [illegible] Decisione [illegible] et alij plures, quos refert et sequitur [illegible] ad Decretale Coll. 57. [illegible] Matthaei cap. 17. [illegible] Sacerdotes [illegible] cap. 7. [illegible] Sacerdotibus [illegible] Imperator [illegible] cap. [illegible] Concilio Trid. sess. 25. cap. 20. [illegible] et [illegible] cap. ult. de [illegible] =

n.º 14

Alteram [illegible] superiori [illegible]

Prosequitur idem [illegible]

exemptione [illegible] potestate tam quoad [illegible], quam quoad tributa [illegible] Duarenus de sacris eccl. ministerijs [illegible] tract. 100. [illegible] Superiori [illegible] D. Paulo ad Rom. cap. 13. [illegible] beneficio [illegible] cap. 11 [illegible] cap. ult. [illegible] Clericorum, cap. 1. de [illegible] cap. 1. de homicidio [illegible] de causis ecclesiasticis [illegible] decernimus [illegible] decernimus 32. 16. q. 7. [illegible] accepte [illegible] de [illegible] D. Thomas [illegible] 2. art. 10. [illegible] cap. 7. [illegible] Clementina 4. de [illegible] n.º 29. exemptio autem Clericorum [illegible] saeculari [illegible]

n.º 15

[illegible] alias [illegible] Clericorum [illegible]

[illegible] Clericos [illegible] Romani Pontifices [illegible] Principes saeculares [illegible] Clericos [illegible] Ecclesiasticorum [illegible] Pontificio [illegible] generali [illegible] Clerici [illegible] ult. de [illegible] Clericis [illegible]

[illegible]

[illegible] laicorum [illegible] dicat [illegible]
[illegible] ministris rerum sacrarum et spiritualium [illegible]
specialem [illegible]
[illegible] iurisdictioni laicorum [illegible]
[illegible] prout [illegible] apparet et Clericos [illegible] beneficiis ecclesiasticis [illegible]
[illegible] cap. 6. [illegible] haec doctrina [illegible]
[illegible]
[illegible]

n.° 16

[illegible]

n.° 17

[illegible]

n.° 18

[illegible]

cum autem [illegible] generaliter agitur [illegible] § 1 [illegible] de leg. [illegible]

[illegible] in dicamus [illegible] in iudiciis [illegible] beneficiariis, nec valere [illegible] iudicio, [illegible]

[illegible] ideoque necesse [illegible] ut [illegible]

[illegible] sicut [illegible]

[illegible] agitur, [illegible] exigatur, [illegible] debet. = Nec [illegible]

[illegible] quoniam [illegible]

[illegible] habent ut [illegible]

[illegible] ordinarie [illegible]

[illegible] seculari opere [illegible]

[illegible] habere meritis ac [illegible] habere, [illegible]

[illegible] utraque [illegible] et secularis [illegible]

[illegible]

[illegible] Praeterea etiam [illegible] iudicibus laicis [illegible] de causis spiritualibus

ecclesiasticis cognitionem [illegible] proprietate [illegible] licet [illegible]

[illegible]

[illegible] iudicibus [illegible]

[illegible] beneficii [illegible]

[illegible] spiritualis beneficialis et spiritualibus [illegible]

[illegible] super proprietate [illegible]

[illegible]

[illegible]

habet, quia ad [illegible] = Denique [illegible]

[illegible] pecuniam det simoniae [illegible] cap. [illegible] 9. [illegible] 26. [illegible] de simonia [illegible]

[illegible]

[illegible] spiritualis tanquam [illegible] debet iudicari [illegible]

tract. 27. cap. 5. [illegible] 2. [illegible] cap. 9. [illegible]

[illegible] collect. et [illegible]

[illegible] Notamus [illegible] similibus [illegible]

ad [illegible] expectativis, [illegible] § 1. [illegible] de [illegible]

[illegible] voluntariis [illegible]

[illegible]

[illegible] cap. [illegible]

[illegible] 4. [illegible] § 6. [illegible] 17. = [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] voluntaria [illegible]

[illegible] 4. [illegible]

[illegible] =

[illegible] Denique [illegible]

[illegible]

[illegible] extra [illegible]

susceptibilis, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] aut
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] cap. 34. n. 17. [illegible] cap. n. 20.
et [illegible] [illegible] [illegible] cap. 18. n. 55. [illegible] [illegible] [illegible] Concilii [illegible]
[illegible] [illegible] validitate [illegible] [illegible] Concilii Tridentini [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] cap. 3. n. 9. [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] validitatem
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] lib. 49
[illegible] [illegible] [illegible] [illegible] [illegible] n. 42. [illegible] [illegible]
[illegible] [illegible] 54. [illegible] [illegible] [illegible] [illegible]
n. 22

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible]

n. 29

[illegible]

[illegible]

n. 24 [illegible]

[illegible] Romam [illegible] tanquam [illegible] approbat et prorogat [illegible] delegatus [illegible] ecclesiastici [illegible]

n. 25

[illegible] Paulus [illegible]

n. 26

Denique [illegible] Ambrosius [illegible]

n. 207

[illegible] Clerico 45. l. 9 [illegible] [illegible] ... Clericorum causas ... [illegible] Clericorum ... [illegible] Ecclesiastico [illegible] ... videtur. = [illegible] ... Clericos [illegible] ... Clerico [illegible] ... cap. 17 ... [illegible]

n. 208

[illegible] ... Clerico ... [illegible] ... Clericis [illegible] ... Clericos [illegible] ... cap. 17 ... [illegible] ... collat. 6 ... [illegible] ... Clericos [illegible] ... n. 87 ... [illegible] ... moral. tract. 24 ... [illegible] =

n. 209

[illegible] ... l. 25 ... [illegible] ... Catholica ... [illegible] ... cap. 2 ... [illegible]

Margin: [illegible] ... Clerico 45 ... [illegible]; Propos. Solutio [illegible]; [illegible] ... l. 5 ... [illegible]

[illegible] quatenus asserant Imperatores Concilia [illegible] itant [illegible]
[illegible] aperte [illegible] Synodo 6a Romana sub Sylvestro [illegible]
Constantinus ex [illegible] ad Synodum Nicaenam [illegible] tanquam [illegible]
[illegible] ut liceret [illegible] nec [illegible]
[illegible] cap. 2. 96. d. tradit [illegible] Sermones [illegible]
[illegible] solere vocari Imperatores ad Concilia [illegible]
[illegible]
[illegible] Imperatorum [illegible]
[illegible] Imperatores [illegible] publicis [illegible] Concilia [illegible]
quae [illegible] tractarentur, oportebat Imperatores [illegible] ut [illegible]
[illegible] cap. 4. et 7. 96. d. cap. Adrianus 63. d. [illegible]
[illegible] =

[illegible] 5.

[illegible] Concilii [illegible]
[illegible] ut [illegible] et Apostolicis [illegible] nec [illegible]
[illegible] alteri [illegible] aut [illegible]
[illegible] Imperator [illegible] ut [illegible]
[illegible] post divortium alteri [illegible] habet [illegible]
[illegible] = [illegible] difficultas [illegible]
[illegible] ut [illegible] expectare [illegible]
[illegible] cap. [illegible]
[illegible] tradit [illegible]
[illegible] ut declararetur [illegible] post divortium [illegible]
[illegible] Matthaei cap. 19. et Paulus ad Corinthios cap. 10. [illegible]
[illegible] cap. [illegible] de divortiis cap. [illegible] cap. [illegible]
[illegible] docet Thomas Sanchez lib. 10. de matrimonio disp. [illegible] severa [illegible]
[illegible] qui [illegible] Principes saeculares [illegible]
[illegible] ut notant [illegible]
[illegible] Concilium [illegible]
[illegible] ut [illegible] observentur [illegible]
[illegible] cap. [illegible] de [illegible] cap. 16. n. 13 [illegible]
[illegible] de matrimonio [illegible] n. 12 [illegible] =

[illegible]

[illegible] n. 1. [illegible]
[illegible] contra [illegible]
[illegible] saeculares [illegible]
[illegible] judice saeculari [illegible]
[illegible]
[illegible]
saeculari judice [illegible]
judicare [illegible] Clericos [illegible] saecularium [illegible]
[illegible]
[illegible] cap. [illegible]

[illegible] Clericus [illegible] coram [illegible]
[illegible] iudicibus [illegible]
[illegible] clerici [illegible]
[illegible]

[illegible]

[illegible]

[illegible] militibus, quoniam [illegible] delicti, [illegible] aut [illegible] [illegible] praecedente [illegible], nec [illegible] [illegible]

n. 34

[illegible] militiae [illegible] [illegible] [illegible] judice [illegible] [illegible] quoniam [illegible] [illegible] quoniam [illegible] militibus [illegible] [illegible]

n. 35

[illegible] [illegible] [illegible] [illegible] [illegible]

n. 36

[illegible] [illegible] [illegible]

Violatori ecclesiasticae = 2°. dicendo [illegible] in [illegible] ... [illegible] Ferra... [illegible] ... publicam, ecclesiasticam [illegible], quam [illegible] ... 3. [illegible] ... oportet [illegible] ... trahere [illegible] ... Germonius [illegible] 2 de [illegible] ...

n.° 37

9°. exorbitans [illegible] ... nullus [illegible] ... per [illegible] ad iudicem secularem ... Principes [illegible] ... coram iudice [illegible] ... facile distinguitur [illegible] ... Imperatoris [illegible] errore [illegible] ... Imperatore [illegible] ... Canone [illegible] ... Milevitano [illegible] ... Imperatores [illegible] publica [illegible] ... ecclesiasticae [illegible] ... [illegible] ... [illegible] 4. [illegible] ... 43. [illegible] =

n.° 38

Decimo [illegible] ... [illegible] ... [illegible] ...

Primo modo [illegible] ... [illegible] ... [illegible] ... [illegible] ... ecclesiastica [illegible] =

n.° 39

Undecimo [illegible] ... [illegible] ... [illegible] ... [illegible] ... [illegible] ... [illegible] ... [illegible] ...

l. 13. tit. 8. p. 2. et l. 56. [illegible] tit. 4. lib. 2. recopilationis, et [illegible] Valdes [illegible] ... [illegible] justitia [illegible] ... [illegible] ... brachii Regii [illegible] ... [illegible] appellatio deferenda [illegible] ... Covarr. [illegible] ... practicarum quaest. cap. 35. [illegible] ... [illegible] accedit [illegible]

Modicum vel [illegible] ... [illegible]

[illegible] ... [illegible]

Quaestio [illegible] de [illegible] ... [illegible]

[illegible] ... [illegible] ... [illegible] ... Sacramentum [illegible] cap. 12. [illegible] ...

De jurib.

Cum [illegible] de [illegible] in cap. 10 [illegible] plures [illegible] et [illegible] Collect. ad Decretales [illegible]

n.° 2

[illegible] Continuata [illegible] ex [illegible] Sed [illegible] 26 [illegible] ex cap. [illegible]

[illegible]

Dubitandi ratio [illegible] quoniam [illegible]

Pl. 3.°

[illegible] cap. [illegible] 27. [illegible]

[illegible]

n.° 4

[illegible] dubitatio [illegible] quia [illegible]

Hereditario [illegible] 26. q. 7. [illegible] spirituale, aut spiritualibus [illegible]

Successione [illegible]

[illegible]

n.° 5

[illegible] difficultates [illegible]

[illegible]

n.° 6

[illegible]

[illegible]

aut [illegible] cap. [illegible] Cum [illegible] [illegible] [illegible] [illegible] quoniam [illegible]

[illegible] quod [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] dicitur [illegible] quia [illegible] [illegible] habet patronatus [illegible] [illegible]

[illegible] quamvis [illegible] cap. [illegible] 16. § 5. [illegible] 3. de [illegible]

ut nulla [illegible] [illegible] [illegible] [illegible] [illegible] cap. [illegible] de [illegible]

[illegible], quoniam patronus [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] cap. [illegible] [illegible] 7. = [illegible] [illegible]

[illegible] [illegible] [illegible] cap. [illegible] 16. [illegible] 7. [illegible]

[illegible] aliquam [illegible] quoniam [illegible] [illegible] [illegible]

[illegible], [illegible] vel [illegible] [illegible] cap. [illegible] [illegible]

de iure patronatus, cap. [illegible] 16. n. 7. = [illegible] [illegible]

ad denotandum [illegible] cap. [illegible] cap. [illegible] 16. [illegible] 1. 6. 7.

[illegible] de patronatus, [illegible] [illegible] cap. [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] 1. [illegible] 2. [illegible] [illegible]

n. 27.

[illegible] [illegible] [illegible] [illegible] ecclesiastici [illegible]

ut [illegible] cap. [illegible] de iure patronatus [illegible] § 1. [illegible] cap. [illegible]

de [illegible] ordinarius [illegible] beneficii [illegible] cap. [illegible] 55. [illegible]

4. Ecclesiastici [illegible] vel [illegible] dicitur [illegible] [illegible] aut [illegible] vel ex bonis

[illegible] [illegible] cap. [illegible] de iure patronatus cap. [illegible] de [illegible]

[illegible] [illegible], aut alicui dignitati, vel [illegible] ex fundatione [illegible] aut [illegible]

[illegible] vel [illegible] [illegible] [illegible] [illegible]

aut [illegible] in [illegible] beneficii [illegible] docet [illegible] [illegible] 7. [illegible]

[illegible] = Ius patronatus laicale [illegible] [illegible] ex eadem fundatione, aut dotatione

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] cap. [illegible] [illegible] [illegible] [illegible]

[illegible] cap. 12 n. 13. = [illegible] [illegible] [illegible] [illegible]

in [illegible] [illegible] [illegible] ut [illegible] de [illegible]

[illegible] et [illegible] [illegible], in [illegible] laicale, et in [illegible]

[illegible] ecclesiasticum docet [illegible] de iure patronatus cap. [illegible] n. 17. [illegible]

n. 28.

[illegible] [illegible] patronatus ecclesiastici, [illegible]

[illegible] [illegible] quod [illegible] [illegible]

ut [illegible] [illegible] quoniam [illegible] cap. [illegible] 27. [illegible] patronatus, [illegible]

[illegible] cap. [illegible] 22 [illegible] de iure patronatus cap. unico [illegible]

[illegible] docet [illegible] [illegible] 72. n. 28. [illegible]

ecclesiasticus ad [illegible] patronatus, quoniam [illegible]

[illegible] 3. de [illegible] [illegible] de patronatus [illegible] 7. cap. [illegible]

[illegible] tempus [illegible] vacationis beneficii [illegible] cap. [illegible] de [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] docet [illegible] [illegible] 7. cap. [illegible] n. 9. [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] cap. [illegible]

de iure patronatus [illegible] [illegible] [illegible] [illegible] 177. [illegible]

Margin notes:

[illegible] [illegible] [illegible] [illegible]

de divisione iuris patronatus [illegible]

[illegible] ... Barbosa ... alleg. 72. n. 154 =

n. 9.

[illegible] ... sepulturis ... D. Thomas 2a. 2ae. ... art. 4. ... sepulturis ... Nicolaus Garcia de benefic. ... cap. 9. n. 47. ... [illegible]

n. 10

[illegible]

Vulpo de ... [illegible]

n. 11

[illegible] ... n. 17 ... [illegible]

[illegible] correspondendum [illegible] de decimis [illegible] ecclesiastico tractanda [illegible] ut late [illegible] cap. [illegible] decimandi [illegible] beneficii [illegible] spirituale [illegible] cap. [illegible] 22 [illegible] de decimis [illegible] cap. 20 [illegible] relatis. =

n.º 12.

[illegible] non obstant [illegible] [illegible] [illegible] quoniam [illegible] decimas [illegible] [illegible] [illegible] [illegible] generale [illegible] ut docent [illegible] Molina [illegible] Bobadilla in sua politica [illegible] [illegible] =

n.º 13.

[illegible] nec [illegible] obstat [illegible] decimas [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] beneficio [illegible] [illegible] [illegible] [illegible] =

n.º 14.

[illegible] decimas [illegible] temporale [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] beneficii [illegible] [illegible] [illegible] spiritualibus, beneficii [illegible] [illegible] [illegible]

n.º 15.

[illegible] decimas [illegible] [illegible] [illegible] [illegible] temporale [illegible] [illegible] [illegible]

Universitati bonorum temporalium accedunt. Velut Villae, Castra, domus, aut aliis similibus. 1o enim Castrum [illegible] quod a Jurisdictione et a bonis separatum, nullo modo vendi potest, nec locari, aut alio titulo transferri quia [illegible] habet ad spiritualia [illegible] c. [illegible] de iure [illegible] [illegible] = [illegible] bonis temporalibus adiunctis [illegible] transit [illegible] universitate bonorum, et bonis vendibus [illegible] [illegible] 24 [illegible] [illegible] temporalibus, [illegible] [illegible] ad decretalis [illegible] =

D. 16. Verum hanc [illegible] videtur obstare [illegible] 37. [illegible] Bartholomaeus [illegible] [illegible] universitate bonorum = [illegible] [illegible] [illegible] Nicolaus [illegible] c. 6. n. 6. [illegible] =

D. 17. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] =

n.º 18

Ex quo deducitur explanatio ad text. in eod. examinato [illegible] de [illegible]
[illegible] et apertè eligitur casus iuris patronatus [illegible] Cumque [illegible]
[illegible] ut nos exponimus in eod. capit.
ita [illegible] erat ne in ead. iuris patronatus [illegible]
dicatur in d. cap. examinata, nec [illegible] deducitur aut casus iuris patronatus [illegible]
~~[illegible]~~ [illegible] ratione [illegible] efficere ut [illegible] regulatur [illegible]
[illegible] promitur. [illegible] habe [illegible] transactionibus [illegible] Bartoli
aliorum doctrinae in l. [illegible] §. arbitrorum [illegible] transactio [illegible] in casu iuris [illegible]
[illegible] transactionibus [illegible] ad ecclesiastica [illegible] spectant. = [illegible]
[illegible] tempore [illegible] cap. examinata dubitatio [illegible]
[illegible] iuris patronatus [illegible]
[illegible] iuris patronatus [illegible]
[illegible] ecclesiastici [illegible] alienare [illegible]
[illegible] examinata [illegible] unde [illegible]
[illegible] substantia [illegible]
[illegible] =

n.º 19

4.º ex [illegible] explicanda [illegible] controversia [illegible]
[illegible] successio deferatur [illegible] hereditario [illegible]
Successio hereditaria [illegible] familia [illegible]
[illegible] iuris patronatus [illegible]
[illegible] ecclesiasticus [illegible] fundatoribus, aut dotatoribus [illegible] filiis
filiis, et [illegible] deferetur [illegible] filij [illegible]
[illegible] transfertur [illegible] hereditariis [illegible]
filij sint sive extranei, et sive succedant ex testamento sive ab intestato [illegible]
plures [illegible] docent [illegible] cap. [illegible] n.º 6. et 7. [illegible]
[illegible] filij [illegible] succedere filios [illegible]
[illegible] =

[illegible]

n.º 20

[illegible] iuris patronatus [illegible]
[illegible] hereditas [illegible]
[illegible] succedere [illegible] fundatorum [illegible]
[illegible] heredibus instituendis. = [illegible]
[illegible] iuris patronatus [illegible]
[illegible] filij [illegible]
[illegible] filios [illegible]
[illegible]

in leg. 40 ... n° 64 ... Molinus ... n° 6 ... regulari ... [illegible]
... [illegible] ... [illegible] ... [illegible] ... =
Ex quo provenit ... necessario ... [illegible] ... [illegible]
Molina ... [illegible] ... cap. 29 n° ... [illegible] ... [illegible]
... literas ... [illegible] ... libera ... [illegible] = ... [illegible]
... [illegible] ... [illegible] ... [illegible]
patronus ... [illegible] ... Celebratur, ... [illegible]
ad ... [illegible] ... patronus ... [illegible] ... [illegible]
... [illegible] ... administratio ... [illegible] ... [illegible]
... [illegible] ... n° 112 ... [illegible]
... [illegible] ... n° 185 ... [illegible]

... [illegible] ...

[illegible]

Perremptorio porq. aunq. D. Gabriel es ac-
cluso expresam.te por dicho D. Obpo. en su fun-
dacion destas Cappellanias, specialm.te en las voca-
ciones de Patronos y Cappellanes de la de Cordoba de 23 de
Mo. de 629. pues nombrando Patronos es uno de
ellos D. Gabriel de Flores. Padre del dho opposi-
tor. Y a falta del y de los demas llamados ha-
ce mencion de los sus descendientes ligitimos. con q. fue
visto excluir al dho D. Gabriel oppositor q. es
descendiente del dho D. Gabriel su Padre
mas, y no es ligitimo = Y prosiguiendo. despues
en los llamam.tos de Cappellanes a falta de los ex-
presados llama a los demas arriba nombrados para
Patronos y a sus successores ligitimos. de el dho
D. Gabriel oppositor como ttenbo dicho es successor de
ligitimo del dho D. Gabriel su Padre. no ala ba-
rono. y como ligitimo i illegitimo son dos cosas
contrarias auiendo llamado e incluydo a los successo-
res ligitimos de los Patronos nombrados, p. Cappellanes. necesariamente
mente se entienden desechados i exclusos los
illegitimos = Y ultimam.te immediata. excluye
a dho D. Gabriel. cuya exclusion tambien
comprehende y ten mas voluntad en el dho D.
Gabriel su hijo y assi es de decir = Lo otro por
q. demas de lo referido mi p.te es muy pobre y
con muchas obligaciones y los dhos D. Fernando
y D. Gabriel de Flores muy ricos y acomodados

los muchos officios y meritos Eclesiasticos y las demas circunstancias de Profession que concurre en mi y en el no en los contrarios. Con que su justicia aque da lo superior y sin opposicion alg.

Por tanto a Vmd pido y supp.co revoque la dicha Sentencia y mande hacer en mi parte collacion y canonica institucion de dha Cappellania prefiriendole a los dhos Don Fran.co Velez y D. Gabriel de Torres. segun y como llevo pedido. Just.a y costas y p.a ello &. y Juro en forma lo necess.o

Lic.do
Don Fran.co Velez
de la Aguila

+

Relectió ad tex. in Cap. fin. de iudiciis. Lib. 2. tit. 1.

Repet. ad textum in cap. finali de pactis in 6.

n. 1. Ut integrum t[ractatum] resolutionis in 6to Sexto Decretalium ostenderemus, vobisque o Clarissimi auditores hoc eminenti Gymnasio nobis explicata exhibeamus, agredimur iam posteriorem Bonifacij Octavi satis elegantem constitutionem relatam in cap. finali hoc tit. Et quam prout tempus patitur explicemus, ni ignorantes manus requiri intervallis, promittimus eleganti[o]ra, et magis necessaria ac propria proponere, itaut exillis possit, si sors obtulerit, in quacumque libet dignitatis, aut ministerij munus honore, [illegible] sperari. Igiter de more nostro initium ab illius non ineleganti specie capiamus. Fuit contractum matrimonium per verba de presenti inter Titium, et Bertam, virtute cuius contractus ortum fuit exceptum utrumque reciproce iuramento. Non obstante predicta Berta reclamavit dicens se talem non debere adimplere contractum. Fuit lis obstacta, lucerit [illegible] Titius esset minor 25 annis, et maior quatuordecim, dubitatur utrum possit in iudicio per se, vel per procuratorem adesse; et respondit Bonifacius 8us in hac causa, et in beneficialibus, necnon in aliis dependentibus ab eisdem posse vel ad agendum, vel ad defendendum per se, aut per procuratorem in iudicio adesse, illud quod infra quatuordecimum annum existat, hinc non potest in iudicio comparere, nisi episcopus aut eius officialis curator illi decernit, cuius auctoritate litis motum exerceant, vel si fuerit maior infante cum auctoritate cuiuslibet ex his, vel delegati sedis Apostolicae poterit procuratorem designare; quod Validum erit etiam si parentes cuiusvis litigans minor existat potestate [illegible] sub illum, quantumvis regulariter filij absque illorum assensu in iudicio esse nequeant, ut latius inferius dicemus.

n. 2. Ex hac facti specie [illegible] quibus inter alia in hoc textu deduci solet ex dicto textu ubi sic se habet. Maior quatuordecim annis, et minor viginti quinque causas beneficiales, et spirituales utique et ab eis dependentes agere, et defendere potest tam si maior 25 etiam sine patris consensu, si minor quatuordecim tantum per curatorem, vel curatorem ad litem datum auctoritate ordinarij, vel delegati ad causas id facere potest. Probatur hoc ex textu in cap. 1 [illegible] cap. 14. [illegible] in Clementinas ambigendi, quem ipsa mulier quamvis minor causam potest matrimonium per procuratorem tractare de restitutione spoliatorum, cap. 2. cap. indecorum 3. de aetate, et qualitate, cap. 1. cap. ad nostram 3. cap. cum dilectus 14. Cum similibus aliis de regularibus et transeuntibus ad religionem, cap. de Crimine [illegible] cap. 1. 2. 20. 9. 12. cap. de regularibus tit. 6. probatur que argumento textus in l. 1. § finali. l. 2. ff. ad Macedonianum l. eius 38. C. de eis, et [illegible], exornant, et illustrant hunc textum [illegible] antiquiores et moderni tenentes Dominicus, Geminianus, Francus, et alii, Panormitanus, et [illegible] de restit. spoliatorum [illegible]. Coll. [illegible] variarum resolutionum [illegible] Flaminius [illegible] Molina [illegible] tract. 2. [illegible] 220. n. 6. Stephanus Gratianus disceptationum forensium cap. 74 n. 11. Boerius decisio 350 n. 10 [illegible] Vulteius [illegible] de [illegible] §. 42. n. 20, et in cap. quia [illegible] §. 28. n. 3. [illegible] cap. 4. [illegible] expradictis tractant hanc rem [illegible] Suarez [illegible] remedio 15. n. 819. Barbosa in l. 1. §. [illegible] Gregorius Lopez [illegible] l. 2. tit. 2. [illegible] l. 7. tit. 6. [illegible] quos de more suo refert [illegible] Barbosa in collectaneis ad cap. [illegible] de restit. spoliatorum, [illegible] 3. et 4.

n. 3. Verum licet hoc non sit tot [illegible], [illegible] firmata, [illegible] difficilius redderetur sequenti ratione, nam minor viginti quinque annis, et maior quatuordecim non habet legitimam standi in iudicio [illegible] fragilitatis, l. 1. et 2. C. qui legitimam personam standi in iudicio habeant, adeo ut si quando quis in iudicio compareant [illegible] adversus sine eis parentes debeat intervenire consensus, l. 1. C. de bonis maternis, l. oportebit. §. veniam l. finali §. ubi autem C. de bonis [illegible] fragilitatis, et consilij deffectus naturaliter militat in minore viginti quinque annis agente causas spirituales, [illegible] et talis argumento textus in l. [illegible] ff. de minoribus, igitur in redditum [illegible] [illegible], possint beneficiales, et spirituales causas [illegible], aut per curatorem tractare, [illegible] filius secularis [illegible] clericus adhuc existat in parentis potestate auctoritate [illegible] Clericus [illegible] episcopalis [illegible] a patria potestate filios liberare statuit [illegible] Bonifacius docet.

n. 4. 2° id [illegible] nostra assertio difficilius videtur ex [illegible] minor viginti quinque annis, et maior quatuordecim etiam si curatorem non habeat, potest [illegible] curatorem 3. C. de [illegible] minorum, [illegible] sine curatore [illegible] in iudicio possunt adesse [illegible] sicut Bonifacius in textu l. 3. §. idem ff. de [illegible], [illegible] ut in [illegible] privilegium [illegible] beneficiales, aut ab eis dependentes pertractant in iudicio [illegible] possint comparere, quantum [illegible] Frustra enim aliquid [illegible] privilegio [illegible] est [illegible] l. unica [illegible] Vulgatus, [illegible] spirituales [illegible] colligitur [illegible] tenenda.

n. 5. Denique quatenus ex [illegible] colligitur maiorem infante [illegible] procuratorem ad litem exercendam cum auctoritate superiorum constituere, [illegible] difficultas, nam ille [illegible] maior infante, qui [illegible] adimpleverit, [illegible] ab eo lumine, [illegible] ut [illegible] quid [illegible] l. 1. [illegible] C. de [illegible], [illegible] nec matrimonium, nec sponsalia contrahere [illegible] cap. [illegible] 4. [illegible]

[Margin notes: l. si longius 18. §. 1. ff. eod. [illegible] l. filius familias 8. [illegible]; etiam si sit alienus; [illegible]]

de desponsat. impuberis, inde quæ eleganter tradit Basilius lib. 7. de matrim. cap. 36. & tot. ubi in nulla [illegible] expectantia eleganter explicat, & resipit, similiter & nec pot. benefic. ecclesiastica obtinere aut super inordinatis, Cap. reprehensibilis, et dignitatibus & pluribus aliis, quæ adducunt Oyeda de incompatibilit. benefic. 1. p. cap. finali n. 9. & seqq. Ord. lib. 7. de benefic. cap. 9. Alvarez Trotij de ætero, & perfecto Clerico c. 28, & 29. Enriquez in summa lib. 10. de sacr. ordinis cap. 19. Aver 2. p. instit. moral. lib. 8. cap. 5. Lambertinus de iure patronatus lib. 2. p. 1. q. 7. art. 26, & nec alia quælibet munera spiritualia, aut alias dependentia exercere pot., ut patet, dum hic respicent, igitur cum illi minor septennio est omnino incapax videatur illarum rerum quæ beneficiales, aut spirituales sunt, frustra videtur illi Cedi ut possint procuratoris auth. Superioris subire, cum nulla lex inveniri queat, cuius dirimendæ quæstionis gratia illius nec in iudicio parat, tanquam nominatus ad eorum obtinere ipse quæ defenderet. =

nº 6.

His difficultatibus non obstantibus dicendum est verissimam esse nostram Decisionem. V. minorem viginti quinque annorum recte posse per se, aut per procuratorem in spiritualibus, et in beneficialibus causis in iudicio adesse, assertionis de caussa vero ratio ut demonstrare possimus, in illa vale Vtilia, et more necessariorum provenire expedit, itaque primus sciendum breviter loco proprio, quod quis in lucem et eduxit, totius vitæ in nulla pot. numerari gradus. 1º. est in ætate infantili usque ad septem annos L. si infanti. C. de iure deliberandi, quo quidem tempore adeo lumine, et usu rationis est destituta, ut negatur L. 1. C. de falsa moneta, quam puer infans in iudicio esse nec pot. et procuratorem ut latius in re decidenda decerna. = 2º gradus à fine septimi usque ad decimum quartum annum in masculo, et duodecimum in femina, in quo gradu puer incipit iam intelligere, arte, et ingenio, saltim aliorum subsidio, et doctrina, ideoque qui maior septennio est pot. sponsalia de futuro contrahere, [illegible] lege ut pubes factus possit la revocare per defectus quæ sint consensus, et similiter de licentia sua pater sponsalibus fit, [illegible] agere ut in appositione posteriori [illegible] dicemus. = 3º gradus humanæ conditionis incipit à pubertate, et masculus maior quatuordecim annis feminæ duodecim incipit habere rationis lumen, et usum, virtute cuius in nulla pot. temporalia exercere, [illegible] prosequi noster [illegible], quanto tamen magis etiam se in spiritualibus, aut beneficialibus rebus, quarum in nulla vere prosequi [illegible] iudicium ignorantes, alios gradus [illegible] vitæ humanæ constituti, et considerari solere =

nº 7.

Igitur ex spiritualibus [illegible] minor viginti quinque annorum [illegible] bus quatuordecim quinti maturos habere, cum iam illis iudicii sunt, ut add. fuerit, cap. pubes. 8. c. finali de desponsat. impuberum, procedit in pueris [illegible] intelligentibus, et simul potentes ad generandum, quantumvis puberes non sint, c. de illis [illegible] [illegible] separari debent, de desponsat. impuberum, tradit Caietanus 2. 2. q. 88. art. 9. Soto in 4. dist. 31. q. unica art. 5. et q. 2. art. 2. Coll. de sponsalibus 2. p. c. 5. per tot. Thomas Sanchez lib. 7. de matrimonio disp. 104. per tot. [illegible] hoc adeo [illegible] ut licet dissentientibus parentibus quod possunt existunt filii, recte queant ipso iure Canonico matrimonium inire, cap. cum [illegible] c. de sponsa 29. de sponsal. c. sufficiat 27. q. 2. Trid. sess. 24. c. 1. [illegible] quos tradunt Anastasius Germonius lib. 2. animadversionum c. 11. Coll. de sponsalibus 2. p. c. 5. §. 7. nº 7. cum seqq. Basilius lib. 2. de matrimonio c. 4. per tot. ubi in nulla et alios [illegible] explicant. Cuius ratio [illegible] libertatis nos [illegible], [illegible] quædam quasi servitutis perpetuæ species [illegible] illud [illegible], naturale sit ut quis obtineat quod ipse sponte eligit, nec optavit cap. [illegible] 4. 209. 3. [illegible] quos [illegible] 3. [illegible] cap. 2. nº 4. [illegible] tamen qui [illegible] requirunt [illegible], et aliis voluntatis [illegible] dependere [illegible] aut [illegible]; [illegible] parentibus in [illegible] filii possint efficere iniuste. [illegible] exheredarent hoc [illegible] quod [illegible] contraxerint, [illegible] fecerint [illegible] Coll. de sponsalibus 2. p. c. 3. §. 8. nº 5. et 6. qui [illegible] §. Si emancipatus ff. de bonorum possess. contra tabulas, et auth. si quis post. C. de inofficioso test., et l. 18. [illegible] et legem 49. [illegible] in nulla quæ alia leges Regias, quibus exheredationis pœna erat imposita filiis invitis parentibus [illegible] [illegible] sublatas [illegible], nec sine ratione, nam etsi Hispaniarum Principes [illegible] honestatis [illegible], quos [illegible] exigendi parentum consensu absque filiis ad coniugalem [illegible], [illegible] habent vim legum, [illegible] sancire ad Romanos Pontifices expectet, ut docent ex antiquioribus, et ex recentioribus plures, quos refert, et sequitur Coll. ubi [illegible] hanc opinionem [illegible] =

nº 8.

[illegible] filii familias puberes possunt disponere [illegible] sive ad religionem, sive ieiunii, sive peregrinationis, quia in talibus votis personalibus [illegible] puberes [illegible] voluntatis deliberatæ, [illegible] patria potestas [illegible] cap. 1. cap. [illegible] cap. finali de regularibus, cap. [illegible] lib. [illegible] videtur ex [illegible] 57. ff. de [illegible] L. filius familias 39. ff. de O. et A. L. finali §. 1. ff. de V. O. [illegible] aperte obligatur filius familias iam puberem posse se obligare ex omnibus [illegible] parente [illegible] aut [illegible] pro certo tempore, nec [illegible] poterit eum liberare pater [illegible] filii parentibus servire deceat, nam ut inquit [illegible] de obsequiis [illegible] filii debent parentibus [illegible] et obsequia, ita concludunt [illegible] 1. p. [illegible] nº 55. de [illegible] Suarez de [illegible] nº 3. cum seqq. tradit eleganter post [illegible] Thomas, et Caietanus 2. 2. q. 88. art. 9. Soto de iust. [illegible] 7. q. 5. art. [illegible] vota personalia, et realia [illegible], [illegible] quod vota realia sunt [illegible] [illegible] ac proinde ob vitandum præiudicium [illegible] requirunt, quod [illegible] 1. 2. [illegible] [illegible] ad Senatusconsultum Macedonianum, vota [illegible] expectent [illegible]

filii

filij, ideoque requirunt nisi intellectum, et deliberatam voluntatem voventis ut iam diximus. Similiter procedit etiam haec doctrina in impubere doli capace, idest pro maturo intelligente, is enim voto personali se obligare potest quamvis in see, sine consensu patris; Sed ut obtineat effectum voluntatis potest pater ante 14 annos in masculo, vel 12 in femina irritare la vota personalia impuberis cap. 1 de reg. 22 q. 2 cap. pueris 15. 22 q. 5. Et si pater adveniente pubertate silendo praeterierit la vota, nec revocaverit, amplius ea non potest irritare, quia talis potestas solum ei est data usque ad pubertatis tempora, ut constat ex dictis iuribus, et resolvit Soto ubi supra =

c. 2. de voto, et voti redempt. docet Suarez de relig. t. 2 lib. 6. c. 2 n. 24.

n° 9.

Deinde possunt puberes se obligare iurato xta auth. Sacramenta puberum C. si adversus venditionem. Nam ex iuratis requirat discretionem cap. 20 si annos 20. de iurando cas. animadvertendum 22 q. 2 in pubere adest discretio, et hoc procedit sive pubes sit sui iuris, sive filius familias, sive iuret per se, sive per procuratorem cum speciali mandato xta cap. fin. de iurato calumniae, et alios doct. Greg. Lopez in l. C. tit. 19. p. 6. in gl. 5, immo ut verior, et magis recepta sententia obtinuit etiam impubes doli capax iurans obligatur, firmat ipsum, nec potest impugnare nisi aetas, ubi dictum iuramenti relaxat ad effectum agendi de iuribus suis, quod probatur ex textu in cap. si minor tangat de iurando, cap. ex litteris el. 1° de sponsalibus, cap. 1° de delictis puerorum, cap. quamvis pactum de pactis lib. 6, l. finali in fine ff. de liberali caus., l. impuberes ff. de furtis; = Et ex eodem probat textus in l. 56 tit. 5 p. 5. in qua statuitur iuratum ab impubere pactum valere, quod procedit, et intelligendum in impubere, qui doli capax est, et advertit Bartolus in dicta auth. Sacramenta puberum, Alex. in l. quiuratae in pr. ff. de iurando, Greg. Lopez in d. l. 6. gl. 5. Canonistae tamen in dicto cap. si minor n. 41 qui sequens late ... tradit.

capue iuramentum intendat principaliter se obligare, cap. debitores de iurando =

n° 10.

Circa puberes possunt obtinere beneficia, et requirentiam animi ... ut colligitur ex textu ... in beneficiis ... qualiter ... explicabimus. ... et ... ecclesiasticis ...

n° 11.

Denique puberes tamquam patres familias ... in spiritualibus ...

n° 12.

In his omnibus spiritualibus ... puberes ... sollicitudine ...

n° 13.

Nec hunc ... obstant ... diximus ...

Clerici intererit, necnon in [illegible] singulis rebus, ideoque quamvis Clericus existat in potestate sui [illegible] adeo potest in iudicio in causis [illegible] quae spirituales, vel illis annexae fuerint, si vero causae fuerint temporales pubes absque parentis [illegible] in iudicio comparere [illegible] ut [illegible] manet, [illegible] probant [illegible] §. 1. de V. O. l. [illegible] ff de [illegible] antiquo, quo in [illegible] potest in iudicio agere, vel conveniri, quippe [illegible] absque [illegible] satisfacere [illegible] adventitiis, vel profectitiis [illegible] habent. [illegible] castrensis, vel quasi castrense [illegible] parente [illegible] in iudicio comparere [illegible] habet tamquam paterfamilias, l. 2. [illegible] ff ad Macedonianum. [illegible] inter spiritualia, et temporalia, [illegible] Bonifacii [illegible] pubere posse adeo in iudicio in spiritualibus, tradit [illegible] [illegible], et Ludovicus Gomecius [illegible] 20. [illegible] in 4°. [illegible] quaestione unica, art. 5°. =

n° 14.

Minus obstat [illegible] difficultas superius adducta, qua dicebamus minorem [illegible] non posse in causis temporalibus [illegible] in iudicio adesse, et posse convenire debitores, aliaque similia facere, ac [illegible] specialiter concessit illi ut in spiritualibus adesset et compareat, [illegible] discrimen [illegible] temporalia, et spiritualia [illegible], ita ut in spiritualibus tamen [illegible] causae [illegible] Clericus. Nec tunc [illegible] obstat [illegible] l. [illegible] Curatores 3. C. de [illegible] non dicendum est [illegible] quibus minor industria requirit [illegible] quae generaliter in [illegible]. Licet autem quis post decimum septimum annum procurator ad negotia licite deputetur, ad iudicia tamen nisi maior viginti quinque annis fuerit, deputari nequit, [illegible] intelligendam, quam eleganter explicat, [illegible] Gutierrez de iuramento Confirmatorio [illegible] cap. [illegible] = [illegible] Caduta, [illegible] l. ait [illegible] alia [illegible] intelligunt [illegible] Curatoris universalis, vel ad litem interveniat auth[illegible] l. [illegible] in iudicio, l. [illegible] C. de [illegible], tradunt [illegible] Clericus Seminarius [illegible] n° 4. Ludovicus Gomecius n° 3. [illegible] =

n° 15.

Denique non obstat postrema difficultas, quam [illegible] maiorem [illegible] septennio posse procuratorem [illegible] ad causas spirituales [illegible] tractandas propterea quod illo [illegible] incapax [illegible], ut [illegible] [illegible] fateamur minorem quatuordecim annis regulariter non posse [illegible] aut [illegible] causam. In [illegible] et specialiter [illegible] in capitulis [illegible] de sponsalibus, [illegible] tradunt [illegible] Sanchez lib. 1. in praecepta decalogi cap. 10. [illegible] Basilius lib. 2. de matrimonio cap. 12. n° 6. [illegible] Gomecius lib. 2. [illegible] [illegible] plures quam alii, quos refert, [illegible] Canensis in Collect. ad [illegible] cap. [illegible] 19. [illegible] et dignitatibus [illegible] dispensat [illegible] quippe [illegible], quae [illegible] religione [illegible] 6. de [illegible] [illegible] dispensare [illegible] ille, [illegible] incapax [illegible] alicuius beneficii vel dignitatis [illegible] Nicolaus [illegible] similibus aliud accedere [illegible] procuratore, [illegible] [illegible] nominari [illegible], [illegible] maiori [illegible] iudicio. [illegible]

n° 16.

Ex his omnibus, [illegible] decidendam [illegible] [illegible], et difficile [illegible] Decretis [illegible] in cap. accedens [illegible] de procuratoribus, [illegible] [illegible] filii [illegible] filiam [illegible] faciendo [illegible] [illegible] libertatis [illegible] filii [illegible] ad maiores [illegible] religiosos [illegible] [illegible] facta. [illegible] cap. [illegible] de regularibus [illegible] monachis [illegible] [illegible] Thomas Sanchez [illegible] ad praecepta decalogi cap. 18. n° [illegible] [illegible] Basilius lib. 7. de matrimonio cap. 5. n° 10. [illegible] fundatur [illegible] authores [illegible] faciunt [illegible] dubitans quis debeat procuratorem constituere [illegible] [illegible] Gregorius [illegible] [illegible] filiis [illegible] procuratores idoneos [illegible] qui ad agendum, et respondendum plenam habeant potestatem. Ex quibus verbis aperte colligitur in causa matrimoniali patrem, [illegible] magis et matrem procuratorem nomine filii constituere debere, quae [illegible] causam matrimonialem [illegible] esse, [illegible] filii [illegible] procuratorem [illegible] in iudicio comparere debere, [illegible] Clericus in d. cap. accedens [illegible] de procuratoribus. =

n° 17.

Difficultatem hanc tetigit [illegible] in d. cap. accedens n° 4. [illegible] [illegible] patrem nominare procuratorem in causa matrimoniali filiorum, quoniam [illegible] fuerint [illegible] parentibus [illegible] [illegible], rejiciturque [illegible] in causa matrimoniali filium posse per se [illegible] procuratores ab illis nominari [illegible] in iudicio, [illegible] [illegible] cap. [illegible] 14. de [illegible] spoliatorum [illegible] tradit [illegible] quamvis minor, [illegible] plures [illegible] 25. annis, maior [illegible] in iudicio comparere potest [illegible] =

Quaeres [illegible] [illegible] in iudicio [illegible] in causis [illegible] potest nominare procuratorem in causis filii [illegible] matrimonialibus [illegible] colligitur [illegible] filii [illegible] hoc [illegible] filii [illegible] in procuratore, [illegible] nominatus [illegible]

[illegible]

Sepositis tamen [illegible] filios firmat, ut videtur infirmare [illegible] accedens [illegible], libera, que [illegible] explicat [illegible] mater [illegible] gravatus filio remitteret [illegible] feminis [illegible] habere. =

n.º 48

Plures super [illegible] decidenda [illegible] Clementis quinti [illegible] relatam in Clem. 2ª. § ut autem de religiosis domibus, ex cuius [illegible] aperte colligitur Hospitalia ecclesiastica, eorumque administrationem [illegible] committi nisi personis providis, idoneis, et boni testimonii, ita ut [illegible] Curatores [illegible] nec [illegible] per tractare [illegible] dicta etate [illegible] fuerint [illegible] ecclesiastica tractat, et [illegible] Clemens 5.us etatem maturam expostulavit, [illegible] spiritualibus, nec in illis annexis minoris 25 annis, et maioris 14 [illegible]. Huius difficultatis dissolvende causa varios [illegible] tradidere antiquiores, ut [illegible] Cardinalis Zabarella in d. Clem. 2ª. [illegible] n.º 8. [illegible] dicendum [illegible] in d. Clem. 2 § ut autem expostulari [illegible] etatem in illis quibus cura Hospitalis committitur, quoniam talia Hospitalia erant secularia, quod autem secularia esset videtur insinuare [illegible] quatenus [illegible] beneficiis [illegible] cedantur, [illegible] generalis [illegible] etatis [illegible] expostulari [illegible] beneficialibus, nec in illis annexis, et dependentibus [illegible] plura alia [illegible] rem adducens Lotherius de re beneficiaria lib. 3. q. 6. n.º 35. cum sequentibus. =

+Hospitalium

n.º 46

Denique [illegible] plura alia [illegible] vera luce donari [illegible] temporis angustia [illegible] omittimus, [illegible] Flaminius Parisius de resignat. Beneficiorum lib. 3. q. 7 [illegible] Stephanum Gratianum disceptationum forensium c. 340 n. 11. plures que alios [illegible] Ludovici [illegible] singulari [illegible] questiones [illegible] quos libenter [illegible] si ut [illegible], tempus [illegible] = Haec qualia [illegible] omnipotentis [illegible] laudem [illegible] Mariae [illegible] sine peccati labe conceptae [illegible] =

Finis

Ad tit. de ordine Cognitionum Schedae. 23.

Ad Titulum Celebrem satisque difficilem de ordine cognitionum Academice exponendo.

Ad Rubricam.

Proemium =

Ex praescripto nostrae Academiae Constitutionis primarijs hoc semestri exponendus tibi [illegible] ardua difficilisque res, ubi [illegible] titulus de ordine cognitionum [illegible] nec[e]ssaria cum [illegible] in scholis, quam in foro ecclesiastico, et seculari [illegible], qui frustra [illegible] Beatum Raymundum Decretalium compilatorem, de jure dicto ecclesiastico, et de juris [illegible] opportunitate [illegible] ordo [illegible], quem [illegible] conditores utriusque juris [illegible] observarunt tituli de ordine judiciorum, et de ordine cognitionum [illegible], quam [illegible] tit. cognitionum judiciorum [illegible] titulo colligitur, et ex titulo in Codice de ordine judiciorum [illegible] intervallo [illegible] Innocentius in [illegible] ad hunc titulum [illegible]. [illegible] proponuntur Pontificis [illegible] altera Clementis [illegible] altera Innocentii [illegible], altera Honorij [illegible] Gregorij [illegible] [illegible] et diversis [illegible] ecclesiasticae [illegible] exponenda [illegible], [illegible] hoc semestri [illegible], proposit[illegible] principijs [illegible] ad illarum meliorem comprehensionem [illegible] Deo auspice ordiamur. =

n.º 1.

[illegible] dictis [illegible], ubique [illegible] definitis, [illegible] exponimus. [illegible] ordine [illegible] varias acceptiones habere in [illegible] pro [illegible] [illegible] 15. ff. de [illegible] [illegible] 4. §. [illegible] [illegible] formula §. ultimo [illegible] de interdictis, [illegible] ordine, et qualitate personarum [illegible] ff. [illegible] ordines, [illegible] l. 1. §. [illegible] [illegible] §. [illegible] duo ff. de [illegible], plenius [illegible] cognitionibus, et [illegible] extraordinarijs cognitionibus, [illegible] ex illis [illegible] [illegible] 18. [illegible] accipitur [illegible] cap. [illegible] 62. d. [illegible] cap. [illegible] 17. d. cap. ad hoc [illegible] cap. [illegible] [illegible] et [illegible] [illegible] ordo [illegible] militiae, in [illegible] gradus, et ordines [illegible] ecclesiastica seculari cap. [illegible] [illegible] Sacramentum [illegible] [illegible] cap. [illegible] 1. cap. [illegible] [illegible] 16 [illegible] sacrum ordinem appellatur, [illegible] et [illegible] [illegible] [illegible] ad [illegible] [illegible] cap. 28. [illegible] [illegible] §. [illegible] 71. [illegible] =

n.º 2.

[illegible] solent, [illegible] rerum [illegible] loci, ut [illegible] [illegible] Gregorius [illegible] de arbitrarijs [illegible] 197. et [illegible] de ordine judiciorum [illegible] n.º 3. [illegible] judicij ordinarij [illegible]. Ordinem appellabant [illegible], [illegible] formulae [illegible], [illegible] de successionibus [illegible] extraordinarie [illegible] L. [illegible] 172. §. 2. [illegible]

§ re VI. quo in numero ve[illegible] judicia [illegible] [illegible] cuius definitione dividi actione, [illegible]
modate [illegible] in leg. cum filius familias 47. ff. de rebus creditis [illegible] si [illegible] 18 § 1. [illegible]
ut docet [illegible] ad [illegible] lib. 21. [illegible] cap. 2. [illegible] hodie ad [illegible]
[illegible] [illegible] formulis [illegible] [illegible] de formulis [illegible]
[illegible] [illegible] Doctor[illegible] n. 4.

n. 3

[illegible] Variae [illegible] definitio. [illegible] ut [illegible]
tradunt [illegible] Maranta, Menochius, [illegible] et [illegible] [illegible] illis [illegible] placet [illegible]
definitio [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]

[illegible]

n. 4

[illegible] [illegible] [illegible]

[illegible] Maranta n. 4.

[illegible]

[illegible]

spoliatus, nec hoc obstant verba [illegible] leg. prolat. C. de ss. ord. in interlocutoriis, cumque ipsi [illegible] judicis dari [illegible] ordinis unius cas. ad alterum, U. cap. [illegible], et cap. porrectionis de [illegible] quaestioni de [illegible] mentibus [illegible], ord. et expedire subsequent, [illegible] appellationis rescindatur, ut etiam illud singulare est quod judex appellatus possit revocare in ordinem gesta, judicem a quo appellatum est breviter examinare, quia notoria est injustitia [illegible] actis cum ex ipsis constet ordinem [illegible], et suspensus ad restituendum [illegible] decisio quaestionis dominii [illegible] docet [illegible] de appellat. q. 27. limit. 6. [illegible] 7. [illegible] 125 [illegible]

n. 6.

Cum [illegible] in judicio ordo sit observandus ut praediximus, aliud [illegible] [illegible] quod cum plena discutitur, aliud quod summarie expeditur. quae [illegible] distincta recepta est quod aliud sit judicium plenarium, aliud summarium. plenum judicium est in quo plene [illegible] nullo omisso articulo de [illegible] leg. judices q. [illegible] plena [illegible] discutere C. de judiciis, cap. cum super de cap. possess. et proprietatis [illegible] restitutionis, quae eleclionis cum plenum [illegible]. summarium judicium illud in quo leviter, et breviter causa examinatur. l. a Divo Pio, §. 1. super rebus de re judicata [illegible] Regulariter autem judicium plenarium, ordinarium [illegible] capitulis, ubi appareat [illegible] quo efficitur summarium, ut docent Menochius lib. 1. de arbitrariis q. 18. Maranta de ordine judiciorum [illegible] = qualecumque [illegible] judicii sit, aliqui inveniuntur casus speciales in quibus [illegible] ordo [illegible] non observatur. U. casus beneficiales, matrimoniales, decimales, [illegible] clerici [illegible] expeditionem [illegible] et in clementina [illegible] in quo ordo [illegible] remittitur quod Principes [illegible] casus decidenda summarie de plano sine judiciario ordine aut sine [illegible], et figura judicii, solidum [illegible] Principis [illegible] intelecto cedentem, [illegible] plenariam [illegible] [illegible] expresserunt, neque est ad [illegible] [illegible], [illegible], neque [illegible], nec defensione [illegible], nec [illegible] in aliqua [illegible] ut post alios [illegible] Baccius lib. [illegible] 57. =

n. 7.

Similiter [illegible] juris [illegible] observatur, nec attenditur in factis notoriis [illegible] probatur [illegible] cap. ad nostram de jure jurando, cap. [illegible] de elect. [illegible] ult. cap. [illegible] cap. [illegible] 24. cap. [illegible] 62. §. [illegible] de appellat. [illegible] de [illegible] clericus [illegible] mulieris cap. 3. de [illegible] cap. [illegible] de [illegible] q. de accusat. cap. [illegible] 2. q. 1. ex quibus [illegible] tur quod [illegible] Canonicas [illegible] in notoriis [illegible] ordo, et quod [illegible] appellationi locus, [illegible] Decianus [illegible] lib. 1. [illegible] 8. [illegible] q. 10. [illegible] 60 [illegible] et alii plures [illegible] Salgado [illegible] cap. 17. n. 4. [illegible] distinguit, explicant [illegible], et [illegible] notoriis [illegible] appellatio [illegible], et [illegible] illud [illegible] ordinem [illegible] = [illegible] in notoriis [illegible] [illegible] notoriis, aut [illegible] [illegible] cap. [illegible] [illegible] lib. [illegible] de [illegible] q. [illegible] cap. 17. n. 5. [illegible] [illegible] q. 28. =

n. 8.

Cum [illegible] notoriis, [illegible] judicium [illegible] regulariter in ordine casus observandi [illegible] [illegible] [illegible]. 1. [illegible] privationis [illegible] judiciorum ordine [illegible] appellat. de accusat. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] ordo [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] in cap. [illegible] de [illegible] judiciis, [illegible]

sequens

de jure [illegible] plenario, [illegible] [illegible] [illegible] [illegible]

de [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible]

[illegible] de la [illegible] cap. 2. de off. deleg. [illegible] erat tanquam [illegible]

[illegible] appellatio ab eo [illegible] fuit ob quas causas suspenditur jurisdictio [illegible] cap. [illegible]

[illegible] 61. [illegible] pro de appellationibus [illegible] coram judice [illegible]

[illegible] cap. [illegible] 17. [illegible] judiciarii [illegible]

[illegible] = [illegible] difficult. dissolvere [illegible] plurimis [illegible]

[illegible] observare, [illegible]

[illegible] quam [illegible] Cardinalis [illegible]

[illegible] 2. [illegible] ordo [illegible] legitime ordinatam

[illegible] appellationis, et sicut [illegible] depositio prioris Abbatis, [illegible] a [illegible]

2. [illegible] pro [illegible] fuit [illegible] legitimo ordine judiciorum, [illegible] Abbati

qui [illegible] erat, de quo [illegible] similiter habita fuit [illegible] appellatio [illegible]

[illegible] affirmat. =

no. 9 Secundo [illegible] difficultas in casu [illegible]

[illegible] absolut.

de jure jurando, [illegible] judice, qui [illegible] juramento promisit [illegible] ordinem judiciorum observare [illegible]

[illegible] declaratur [illegible] ad observantiam [illegible] absolvatur, [illegible]

[illegible] difficultatem [illegible] obligat, [illegible]

[illegible] ordo judiciarius

observare [illegible] rationabiliter, [illegible] relaxatur [illegible]

ordinem judiciarium, [illegible] observare [illegible] = [illegible] difficultas [illegible]

[illegible] solvitur [illegible]

[illegible] cap. [illegible] de observantia ordinis judiciarii [illegible] absolut. [illegible]

[illegible]

[illegible] ordinis observare [illegible] judiciarii [illegible]

[illegible] alii [illegible] alii in [illegible] alii [illegible]

[illegible] alii [illegible] de observantia ordinis judiciarii

[illegible] in singulis [illegible]

[illegible] attendentur, [illegible] forma [illegible]

[illegible] = 8. [illegible]

no. 10

[illegible] ordinis [illegible] Abbatis, [illegible]

[illegible] absolut. [illegible] 17. [illegible] ordo [illegible]

[illegible] legitime [illegible]

[illegible] ordine [illegible] observantiam [illegible]

[illegible] = [illegible] difficultati [illegible] judicii ord. [illegible]

[illegible] judicium [illegible] Salvi, [illegible] acta judicii

[illegible] tanquam judicii

[illegible] leg. [illegible] 5. §. [illegible] solutionem [illegible]

nulla [illegible] sustinetur. L. [illegible] 44 ff. de [illegible] 12. §. [illegible]

[illegible] debet L. [illegible] 9. §. [illegible]

[illegible] debet [illegible]

[illegible] judicis [illegible] debet, [illegible]

[illegible] esset [illegible]

[illegible]

ut videre quod magis nostri interest potius ad rem [illegible] ... ut consequenter [illegible] ... ut docet Baldus ... [illegible] ... Menoch. ... lib. ... [illegible] ... Maranta de ord. Judiciorum ... n. 50. =

n. 10.

Hic etiam animadvertendum ... [illegible] ... assertionis ...

[illegible]

n. 11.

Ut non obstant difficultates ... [illegible] ...

[illegible]

n. 12.

[illegible]

§. [illegible] ad [illegible] admitti, nec [illegible] in eo deponit [illegible]
[illegible] C. de posit. [illegible] Galiz. =

n.º 13.

Tertius insurgit 3.ª dubitatio, quia debeamus [illegible] admitti [illegible] libellus in quo [illegible] libellus [illegible] generaliter [illegible] admitti [illegible] libellus opponent, quando [illegible] libellus [illegible] in leg. ult. C. de [illegible] debet [illegible] declaratus fuerit [illegible] in certo libello [illegible] adversus partem declaravit, [illegible] libellus declarationis [illegible] et declaravit, et absolute debet libellus [illegible] declaratio, et [illegible] absolvi ab observatione judicii. [illegible] causa debet adversus [illegible] [illegible] libelli [illegible] in l. 4. tit. 4. recopilationis [illegible]
[illegible] libellus [illegible] admittere [illegible] opponente, nec [illegible] in leg. 10 tit. 17. [illegible]
[illegible] veritate [illegible] ut docent [illegible]
[illegible] in libello [illegible]
[illegible]
[illegible] libellus [illegible] opponente [illegible]
[illegible] =

n.º 14.

[illegible] quia dicebamus [illegible] actori [illegible]
[illegible] opponente [illegible]
[illegible] per [illegible]
[illegible] l. Cabb. tit. 2. [illegible] cap. [illegible] ad superius judicii [illegible]
[illegible] ab [illegible]
[illegible]
[illegible]
[illegible] Cabb. [illegible] cap. [illegible]
[illegible] cap. [illegible] 145. [illegible]
[illegible] tit. [illegible]
[illegible]
[illegible] =

n.º 15.

Et [illegible] 4. [illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible] debet. = [illegible]
[illegible]
[illegible] cap. [illegible] 6. [illegible] 17 [illegible]
[illegible]

[illegible] 27.

63. [illegible] cap. privilegiorum 11 § 3.

Cum Deus [illegible] habeat dominium. Facit [illegible] capitulis [illegible] solemnitate, et [illegible] bona [illegible] cap. nullius [illegible] cap. sine [illegible] tradit Barbosa [illegible] alleg. 95 [illegible]. = [illegible] doctrina [illegible] difficultatem dicendo [illegible] delictis [illegible] [illegible] calumnia [illegible] in forma [illegible] potest [illegible] succurreretur [illegible] procedere [illegible] =

n. 16

Denique facit [illegible] alleg. [illegible] 44 [illegible] [illegible] delictis [illegible] doctrina [illegible] [illegible] defendere [illegible] [illegible] Victoria [illegible] de legibus [illegible] 34 [illegible] = [illegible] delictis [illegible] l. [illegible] 4 § 1 ff. [illegible] l. 1 § quid [illegible] leg. 4 ff. [illegible] [illegible] leg. 3 § [illegible] [illegible] [illegible]

n. 17

[illegible] 4 [illegible] [illegible] [illegible] [illegible] =

n. 18

[illegible] [illegible]

[illegible] 141

v. denique [illegible] generaliter dicamus [illegible] quemcumque [illegible] [illegible] [illegible] secundum [illegible] cap. [illegible]

n. 97. = [illegible] difficult. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] adversus [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] cap. 11. [illegible] [illegible]

[illegible] [illegible] [illegible] adversus quemcumque [illegible] [illegible] [illegible] cap. 11. [illegible]

[illegible] decisio, [illegible] [illegible] [illegible] [illegible] successionem [illegible] [illegible] [illegible] [illegible]

adversarium [illegible] [illegible] [illegible] [illegible] [illegible] partis allegat. [illegible] [illegible] [illegible]

[illegible] cap. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

parte [illegible] [illegible] allegat. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] cap. 7. n. 163. =

[illegible] adversus [illegible] [illegible] [illegible] [illegible] cap. 11. [illegible]

n. 29.

[illegible] [illegible] [illegible] cap. [illegible] significant 36 [illegible] [illegible] n. 97. [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] successorem [illegible] [illegible] [illegible] [illegible]

[illegible] successor [illegible] cap. 11. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] successor [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] successoris [illegible] = [illegible] difficultas [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] cap. 11. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] privilegium [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] cap. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] =

[illegible]

Denique [illegible] [illegible] [illegible] [illegible] 15. [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] libello [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] libellus [illegible] [illegible] [illegible] [illegible] = [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] 217. [illegible] [illegible] [illegible] 6. [illegible] 3. n. 5. [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] 4 [illegible] 95. [illegible] [illegible]

[illegible] [illegible] [illegible]

[illegible] [illegible]

[illegible]

Expositio ad celebrem textum in cap. tuam &c. Extra de ordine cognitionum.

Honorius 3. Pontificis maxime decisio relata in cap. tuam 3. ... est celebris, et difficilis est, ... proponere ... utque ... [illegible] ... Historia ... sic se habet. Alaidis filia Henrici secundi Comitis Campaniae, et Isabelis ... [illegible] ... et transmisit ad filiam, quae similiter Alaidis vocabatur, ... Comitatus Campaniae adversus Theobaldum sextum, qui illi opponebat natalis defectum in persona Isabelis ... [illegible] ... [illegible] ... et ideo cum nuptiae duobus fuisset ... [illegible] ... Philippum Regem Francorum, et ... Ludovico ... Honorius 3. monuit ne ante iudicarent de proprietate Comitatus, ... [illegible] ... [illegible] ...

n. 2. Sic se habet, ... [illegible] ... probatur ... cap. 1. ... cap. ... cap. 10. ... [illegible] ... Bellarminus ... cap. 17. ... [illegible] ... Molina de Hispanorum primogeniis ... cap. 4. ... [illegible] ...

n. 3. Id licet ... [illegible] ... difficilis ... sequentibus dubitationibus. 1. ... [illegible] ...

n. 4. Secunda difficultas ... [illegible] ...

et [illegible] cap. [illegible] cap. lib. 13. de [illegible] cap. 1. [illegible] [10]

[illegible] dicere [illegible] lib. [illegible] dist. 74 n. 44 [illegible] cap. 36 [illegible]

cap. 6. 60. n. 97. et [illegible] [illegible] principaliter procedere, [illegible] et defensionem

[illegible] principalis [illegible]

exceptio [illegible] propositum, [illegible] exceptio, [illegible]

[illegible] =

[illegible]. Tertio [illegible] ex hac [illegible] qui [illegible] quamvis

quisque pro suo delicto et peccato puniendus [illegible] [22] C. de poenis; [illegible] delictis

[illegible] divinis et humanis [illegible] cap. 2. [illegible] lib. [illegible] C. [illegible]

[illegible] et observare [illegible] cap. [illegible]

[illegible]

[illegible] L. 1. [illegible]

[illegible]

[illegible] debeat delictis [illegible]

[illegible]

[illegible]. [illegible] Principem

secularem [illegible] de successione [illegible] tanquam [illegible]

[illegible] appellat. [illegible]

[illegible]

[illegible] debeat [illegible]

[illegible] Princeps [illegible]

[illegible]

patienter [illegible] procedere. =

[illegible]. [illegible] dubitationibus [illegible] affirmans [illegible]

[illegible] procurat decidendam [illegible]

[illegible] Regina [illegible]

[illegible] Regina [illegible]

[illegible] coram Rege. = [illegible] affirmant illegitimum [illegible]

[illegible] coram Francisco Rege, Regina [illegible]

[illegible] illegitima [illegible] C. [illegible]

[illegible] exceptio [illegible] exceptio [illegible] =

[illegible] Rege [illegible]

Regina tanquam [illegible] illegitimam [illegible]

[illegible] exceptio [illegible]

[illegible] cap. [illegible] Rex Franciscus [illegible]

[illegible]

Regi Francorum [illegible] =

[illegible]. Quo [illegible] fundamentum [illegible]

[illegible] Regina [illegible] successio [illegible]

[illegible]

[illegible] Ludovico Francis [illegible] de successione [illegible] Philippus pater suus [illegible] Philippus [illegible] Nec denique [illegible] super hoc requisitus [illegible] quae [illegible] definitio successionis determinata [illegible] quae [illegible] pro [illegible] Augustus [illegible] consuetudine [illegible] decreta [illegible]

n.º 9.

[illegible] exceptiones [illegible] procuratoris [illegible] de exceptionibus [illegible] exceptio [illegible] de exceptionibus [illegible]

Exceptiones dilatoriae et peremptoriae [illegible]

n.º 10

[illegible] exceptiones [illegible] de exceptionibus [illegible]

Alias exceptiones [illegible]

n.º 11

[illegible] exceptiones [illegible]

[illegible]

[illegible]

[illegible] probato, sicut [illegible] l. 1. § [illegible] ff. de [illegible] §. [illegible]
[illegible] eadem, l. 3. §. [illegible] ff. ad [illegible], [illegible]
[illegible] docet [illegible] de [illegible] 7. [illegible] n. 27. [illegible]
[illegible]
resoluto, [illegible] cap. 7. [illegible] filijs [illegible] legitimi [illegible]
[illegible]
Carolus [illegible] tradetur, ut [illegible] Molina [illegible]
lib. 3. cap. 3. n. 24. et 5. [illegible] =

n.º 12

[illegible]
illegitimis [illegible] quia [illegible] fuit [illegible]
[illegible] successionis [illegible] ecclesiasticos. [illegible]
[illegible] de facto [illegible]
[illegible] valeat, [illegible]
[illegible]
[illegible] valeat, [illegible]
ecclesiasticis [illegible] sicut [illegible]
illius valore [illegible] cap. [illegible]
[illegible] = [illegible]
[illegible] l. 47. [illegible] l. 1. 4. [illegible]
[illegible]
[illegible] ecclesiasticis [illegible] de facto [illegible]
[illegible]
[illegible] plures, quos refert, [illegible] de [illegible] =

n.º 13.

[illegible]
[illegible]
[illegible]
[illegible]
[illegible] valeat [illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible] Molina [illegible] =

n.º 14

Sexto et ultimo, [illegible]
[illegible] de facto [illegible]
[illegible] ecclesiasticis [illegible]
[illegible]
[illegible] de facto [illegible]
[illegible]
[illegible] lib. 1. cap. 5. [illegible]

Margin notes:
[illegible]
[illegible]
[illegible]
de [illegible]

[illegible] Cost. [illegible] 97 cap. 5 n. 1. [illegible] cap. 8. §. 12 n. 8 Menoch. [illegible] 15.

n. 12. [illegible] 97. n. 34. [illegible] 34. n. 5 [illegible]

[illegible] ut [illegible] laicalis, vel spiritualis, suspendi [illegible] super illa

[illegible] dicimus, [illegible] Apostolicum

[illegible] debet [illegible]

[illegible] an [illegible]

[illegible] fieri debeat, ut [illegible]

[illegible]

n. 15.

Et jam [illegible] proponere [illegible] conclusiones decidendas, cum

[illegible] duplicem [illegible] proponere [illegible]

[illegible] prouenit, [illegible]

[illegible] Paulus [illegible] 6. n. 7.

que Catholica [illegible] 27. [illegible] cap. 8. [illegible] 2. [illegible]

cap. [illegible] de divortijs cap. [illegible] Trid. sess. 7. de [illegible] 24. de [illegible]

[illegible] et [illegible] expectet, [illegible]

[illegible]

[illegible] cap. [illegible] 12. [illegible] Trid. sess. 24. de [illegible]

[illegible]

[illegible] et

[illegible]

[illegible] debet [illegible] et [illegible]

[illegible] 26. [illegible] 22. n. 19. [illegible] 24. [illegible]

unico [illegible] et [illegible] quare [illegible]

[illegible] Rex Franciae [illegible] cognitionis [illegible]

tanquam [illegible] docent [illegible] n. 5. [illegible]

n. 16.

Secundo [illegible] affirmat Regem Franciae tanquam secularem [illegible]

ulterius procedere [illegible] donec [illegible] de [illegible] assertione

[illegible] et [illegible] quam [illegible] et [illegible]

[illegible] ordinarium [illegible] altera [illegible]

ut [illegible] patet, [illegible] Regem Franciae [illegible] et [illegible]

et [illegible] ordinarium [illegible] diversis [illegible]

[illegible] Pontifex atque Rex Franciae [illegible]

[illegible] et judicij [illegible] de [illegible]

[illegible] Apostolico [illegible] Rex Franciae [illegible] et [illegible]

[illegible] tanquam [illegible]

[illegible] debet [illegible] ut [illegible]

autem Rex Franciae [illegible] et [illegible] in casu qualiter

Reg. n. 17. [illegible] cap. [illegible] 11. §. ult. de [illegible] 16. [illegible]

[illegible] Rex Franciae, [illegible] debet [illegible]

[illegible] tanquam [illegible]

[illegible]

[illegible] n. 13. =

Ex quo

Secus [illegible]

n.° 17 Ex hac duplici decidendi ratione proveniunt [illegible] ad [illegible]

contrarium [illegible] videtur. 1.° ad text. in l. cum quis 29 ff. de judiciis ubi cavetur [illegible] novandae [illegible] Primo [illegible] obtinere

[illegible] exceptionis [illegible]

[illegible] judiciis, ut accidit [illegible] de except. [illegible] judiciis. = 2.° ad text. [illegible]

[illegible] ff. de judiciis quae docet [illegible] debere [illegible] coram Rege [illegible]

[illegible] definiendo. = Ad [illegible] respondemus [illegible] principalis a Rege [illegible] referendo [illegible]

[illegible] amplius [illegible] ne [illegible] defence [illegible]

Sapientiae [illegible] = 3.° ad text. in leg. de quare 74. ff. de judiciis, [illegible]

[illegible] = 4.° ad text. in cap. 1.° de causa possess. et proprietatis, [illegible] C. de judiciis [illegible]

partes [illegible] dividendas, quod cesset quod [illegible] ad diversos [illegible] expediat [illegible] in cap. ult. [illegible]

5.° [illegible] explicantur [illegible] Fiscal. de liberali causa = 6.°

in cap. si [illegible] de off. [illegible] et l. 2 ff. de [illegible] determinandos [illegible]

[illegible] et terminos [illegible]

[illegible] in cap. [illegible] = [illegible]

[illegible] de judiciis [illegible] coram Rege [illegible]

[illegible] Regis [illegible]

[illegible] =

n.° 46 Sed iam obstare [illegible] 17 [illegible]

C. de judiciis [illegible] principali [illegible]

[illegible] Regis [illegible]

[illegible] in Cap. [illegible] 2.° [illegible] 4. [illegible]

[illegible] de judiciis [illegible] de arbitris [illegible]

Sapientiae [illegible]

[illegible] Clerici, [illegible] = [illegible]

[illegible] Respondemus [illegible]

[illegible] de judiciis [illegible] Francis [illegible]

[illegible] = Nec [illegible] in cap. [illegible] 41 [illegible]

[illegible] ut [illegible] in cap. [illegible] in cap. decem [illegible]

[illegible] in [illegible]

[illegible] Sed [illegible]

[illegible] in cap. [illegible]

[illegible] de beneficiis [illegible] =

n.° 49 [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

Nr. 4 [illegible]

successio, et determinatio, ut exlitt. Comet, et illa exceptio efficitur praejudicialis et habet primos Virtutes et effectus, [illegible] suspendendi processum ut iam diximus. = Necesse oram [illegible] excepti accidentaliter incidentaliter [illegible] peremptoriis, quae debet tractari cum principali, quia dum est, cum [illegible] praejudicialis efficitur, tamen habere praejudicialis [illegible] exceptio. ex [illegible] exceptio spoliationis [illegible] accidentaliter admittitur ex resumptione per [illegible] suspendendi [illegible] [illegible], et quo [illegible] facta fuerat declaratio. [illegible] quod haec modi exceptio opponeretur coram Judice competenti, [illegible] Francis ex [illegible] [illegible] de [illegible] [illegible], illa exceptio et per se peremptoria, et simul [illegible] tractanda et definienda, [illegible] docent [illegible] [illegible] animadversio cap. 16, et alii plures quos refert [illegible] [illegible] 2. [illegible] 41. n. 50. et [illegible] 3. [illegible] 45. [illegible] =

n. 20.

Rursus insurgit 3ª dubitatio superius proposita, quae [illegible] tantum [illegible] habere delicti [illegible] debere tenere authoris [illegible] mortis regulariter [illegible]. Quoniam licet dicamus [illegible] nam Veram [illegible], affirmamus [illegible] cassu ubi de [illegible] et quod illegitimitate agitur [illegible] illegitimi delinquant, tunc [illegible] incapaces quaecumque obtinenda dignitates, in [illegible] culpam [illegible] [illegible] sive culpa delinquens [illegible] quae [illegible] illegitimitatis [illegible], de [illegible] superius proponitur. [illegible] Facit [illegible] cap. [illegible] 7. qui filii sint legitimi [illegible], [illegible] nulla [illegible] interveniat, si [illegible] praecedit. [illegible] Controversiam motam de successione [illegible] nepotes, aut agnatos, et [illegible] de Viribus matrimonii [illegible] judicio Criminali [illegible] accusari [illegible] morte [illegible] [illegible] et tandem [illegible] Civiliter [illegible] praeveret, [illegible] ut [illegible] [illegible] Covarruvias, et [illegible] n. 4. [illegible] =

n. 21.

Denique [illegible] difficultas quae [illegible] Regem Francis [illegible] de successione [illegible] illegitimitatis [illegible] inhibitio a [illegible] quae dicto Regis Christianissimi [illegible] ad inhibitionem concedendam [illegible] cap. Romana § Si vero de appellationibus [illegible] [illegible] [illegible] [illegible] inhibitione [illegible], [illegible] Mandrius [illegible] [illegible] [illegible] Coll. pract. [illegible] 4. n. 3. Verum [illegible] [illegible] quod [illegible] inhibitionem [illegible] [illegible] quod ille [illegible] Judicis [illegible] de re spirituali cognoscere [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] cap. 7. [illegible] 24. cap. 20. [illegible] [illegible] cap. Romana [illegible] de appellationibus [illegible] 6. [illegible] in appellationibus [illegible] 47 [illegible] 87 [illegible] [illegible] [illegible] [illegible] Coll. et Mandrius [illegible] [illegible] Barbosa [illegible] [illegible] [illegible] =

n. 22.

Ex his [illegible] [illegible] [illegible] inferatur explicatio [illegible] decretis [illegible] cap. [illegible] de [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] temporalis [illegible] saecularis [illegible] [illegible] judicium saeculare, [illegible] de utraque causa [illegible] [illegible] et de [illegible] debuit [illegible] cognoscere [illegible] [illegible], aut [illegible] debuit [illegible] ad Regem Francis [illegible] [illegible] [illegible] [illegible] semper [illegible]. = [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

in iudiciis deduci, aut vi exceptionis ut in cap. 2. de ordine cognitionum, aut in actionis, seu mutuae petitionis, aut [illegible]

[illegible], quam habet ad causam principalem ut in d. cap. de pendentia = Deinde sciendum in [illegible] plures causae con-

[illegible], vel post eamdem terminare finaliter, vel diversas [illegible] modus [illegible] ut de quare [illegible]

judex, de eadem pronuntiare debeat l. de quare 74 ff. de judiciis, si quod simul [illegible] controversias [illegible]

[illegible], et tot continentur sententiae quot [illegible] controversiae l. [illegible] ff. de receptis arbitris, [illegible]

causae [illegible] ut separari nequeant, tunc simul de ipsis dicere debet l. hyredes [illegible] §. [illegible] ff. familiae

erciscundae. Et in causis diversis inter se separatim potest pronuntiare quolibet [illegible] habeant [illegible]

de judiciis l. 6. l. 4. C. de pondere [illegible] in principali tamen resultat [illegible]

exceptio peremptoria quae [illegible] ponitur, ut [illegible] Barbosa in lege

[illegible] ff. soluto matrimonio. =

n. 23

[illegible] animadvertis difficultas orta ex decisione [illegible] in cap. de pendentia

tam [illegible], quia in illo dotis quaestio [illegible] non quidem in modum exceptionis peremptoriae [illegible]

[illegible], sed dependenter et accessorie in modum actionis, quia [illegible] terminos matrimoniales [illegible]

[illegible] dos [illegible], et de [illegible] accessionis [illegible] de judice de [illegible]

[illegible], quamvis dotis [illegible] de qua [illegible] separatim a causa [illegible]

judices [illegible] utramque controversiam [illegible] definire, [illegible] judices [illegible] pronun-

[illegible] matrimonii, deinde quaestione dotis, quoniam pluribus causis in eodem judicio deductis licet [illegible]

[illegible] definire, vel separatim d. l. [illegible] ff. de receptis arbitris lege [illegible] 29. [illegible] de minoribus

[illegible] in d. cap. de pendentia reperitur dos post finitam causam controversiae [illegible] pro [illegible]

[illegible] [illegible], quia [illegible] dos principaliter petebatur [illegible] non [illegible] dependenter

accessorie causae successionis [illegible] se habebat [illegible] matrimonii, sed potius [illegible] modum exceptionis [illegible]

[illegible] illegitimitatis exceptio tamquam [illegible] decidenda [illegible] ; [illegible]

causae successionis [illegible] decidendae [illegible] tamquam separata, et [illegible]

[illegible] illegitimitatis [illegible] decernatur [illegible]

[illegible] decidenda [illegible] in d. cap. de pendentia [illegible] accessione [illegible]

[illegible] relata in Genua [illegible] 27. n. 3. [illegible] Barbosa [illegible] 29. et [illegible]

n. 24.

[illegible] solutis quaestionibus [illegible] in d. cap. de pendentia [illegible]

judicandum de eadem dote [illegible] cognoscere quoniam dependens accessoria erat [illegible] modus actionis [illegible]

[illegible] matrimonialis obstare videtur [illegible] decisio [illegible] in cap. [illegible] de [illegible]

[illegible] ad [illegible] dotis [illegible]

[illegible] dotem fuisse principaliter petitam coram judice [illegible]

[illegible] dicitur [illegible] accessione. = [illegible] dicendum mulier [illegible] cap. [illegible]

dotem [illegible] fuisse [illegible] judicem [illegible] delicti mariti fuit [illegible]

[illegible] procedente, [illegible] cognoscere [illegible] opressis

[illegible] succurrere debet cap. ex [illegible] 6. de foro competenti [illegible] animadvertit [illegible]

n. 12 = Nec quidquam [illegible] dicere mulier [illegible] videri, cum hic [illegible] maritus [illegible]

[illegible], [illegible] mulierem [illegible] debere, [illegible] illius [illegible]

erat, [illegible] habere [illegible] de [illegible]

[illegible] ult. [illegible] de [illegible] Coll. [illegible]

n. 2. [illegible] 27 [illegible] =

n. 25

Secundo deducitur [illegible] ad [illegible] cap. [illegible] causa [illegible]

[illegible] [illegible] judicem [illegible] [illegible] naturalis [illegible] causam [illegible]

incidenter [illegible] quaerunt [illegible] ad causam principaliter [illegible]

[illegible]

aut [illegible] judiciis [illegible] daelicti. = Haec difficultas adeo premit [illegible] ut dicant [illegible] de causa possessoria, [illegible] considerarent tamquam [illegible] admittere [illegible] cognoscere, [illegible] quando [illegible] cognitio causae matrimonialis sive possessoria sive petitoria [illegible] = [illegible] hac et aliis solutionibus [illegible] causa bonorum [illegible] principaliter simul cum causa [illegible] [illegible] actione utraque [illegible] [illegible] inter diversos judices dividuntur [illegible] quia [illegible] ex [illegible] libello [illegible] atque [illegible] de [illegible] [illegible] de [illegible] separando cognoscat, [illegible] de dote cognoscere debet, quoniam [illegible] ad judicem saecularem remitti [illegible] nulla [illegible] dependentia [illegible] causa [illegible] saecularis [illegible] de causa [illegible] bonorum cognoscat [illegible] observatur [illegible] successionis [illegible] [illegible] successionis [illegible] [illegible] [illegible] =

n. 26.

Ad [illegible] [illegible] principaliter possit cognoscere de causa [illegible] [illegible] L. C. de [illegible] [illegible] cognoscere [illegible] [illegible] = Haec difficultas [illegible] in lege quoties C. de [illegible] affirmant quod judex saecularis possit cognoscere [illegible] de causa matrimonialis [illegible] = [illegible] principaliter [illegible] causa matrimonialis [illegible] [illegible] aut tamquam [illegible] [illegible] saecularis [illegible] principaliter [illegible] cognoscere [illegible] saecularis cognoscere [illegible] principaliter [illegible] [illegible] cognitis [illegible] de quo [illegible] saecularis [illegible] [illegible] [illegible] [illegible] =

n. 27.

[illegible] [illegible] judicem saecularem [illegible] possit cognoscere de facto [illegible] [illegible] de facto [illegible] saecularis [illegible] cognoscere [illegible] = Haec difficultas [illegible] [illegible] judicem saecularem de causa [illegible] cognoscere [illegible] [illegible] saecularis de facto [illegible] cognoscere possit. = [illegible] saecularem nullo modo posse [illegible] de facto [illegible] cognoscere [illegible] [illegible] cognoscere [illegible] [illegible] cognoscere [illegible] in lege [illegible]

[illegible] ... vel judicent ... [illegible] ... publica [illegible] judex secularis de [illegible] facto [illegible] ... [illegible] hereditas ... et de [illegible] facto ... [illegible] ... procedere [illegible] ... [illegible] ... [illegible] ... repellatur [illegible] ... cap. [illegible] ... de [illegible] ... n.° 4 ...

[illegible]

[illegible] ... solutione [illegible] ... in cap. [illegible] ... cap. parochianos [illegible] ... decimas quid spirituale [illegible] ... ministris aplicantur [illegible] ... cap. [illegible] ... [illegible] ... facto ... [illegible] ... decimas ... spirituales ... [illegible] ... [illegible] ... [illegible] ... laicus habet [illegible] ... seculari [illegible] ... privilegia ... virtute secularis [illegible] ... habent [illegible] ... decimas [illegible] ... [illegible] ... cap. parochianos [illegible] ... [illegible] ... procedere ... expediret [illegible] ... ut docent [illegible] ... cap. [illegible] ... [illegible] ... cap. 17 ... [illegible] ... alii plures quos refert [illegible] ... [illegible] ... cap. parochianos [illegible] ... [illegible] ... [illegible]

n.° 29

[illegible] ... ultimo [illegible] ... libros [illegible] fidei [illegible] ... [illegible] ... dente posse [illegible] debitoribus hereditariis. Vel [illegible] ... occupant [illegible] ... [illegible] ... hoc judicio [illegible] ... habeat ... [illegible] ... videbatur [illegible] ... [illegible] ... [illegible] ... utramque [illegible] ... [illegible] ... difficultatem ... [illegible] ... [illegible] ... [illegible] ... [illegible] ... universali aliter judicatur ... [illegible] ... [illegible] ... probare ... [illegible] ... fidei ... [illegible] ... habet [illegible] ... [illegible] ... [illegible] ... l. 49. de bonis fidei [illegible] ... [illegible] ... [illegible] ... [illegible] ... [illegible] ... secularis, vel ecclesiastica ... [illegible] ... [illegible] ... [illegible] ... n.° 9. 97 ... [illegible] ... libris fidei [illegible]

[illegible]

[illegible] ... [illegible] ... exceptionis ... [illegible] ... [illegible] ... [illegible] ... [illegible] ... [illegible] ... [illegible] ... [illegible] ... [illegible] ... [illegible] ... [illegible] ... [illegible]

[illegible] ... [illegible] ...

[illegible] ...

Relectio ad text. in cap. Super spoliatione [illegible]
= hoc anno [illegible] de ordine [illegible] =

Proemium

Succedit iam exponenda istius [illegible] in tit. de ord. cogn. pertinens decisio [illegible] [illegible] Maxima [illegible] de recuperanda [illegible] spoliationis [illegible] [illegible] [illegible] spoliatus [illegible] [illegible] [illegible] [illegible] beneficio ut restituatur [illegible] spoliatus [illegible] [illegible] [illegible] spoliator [illegible] audiendus [illegible] [illegible] [illegible] restituere [illegible] spoliator [illegible] audiendus [illegible] [illegible] [illegible] spoliationis [illegible] exceptione [illegible] spoliationis [illegible] [illegible] [illegible] [illegible] spoliatum [illegible] [illegible] [illegible] spoliatus [illegible] decidendo [illegible] =

n. 2

Ex quo facto [illegible] [illegible] [illegible] [illegible] recuperandae [illegible] spoliationis [illegible] exceptione [illegible] [illegible] spoliatus [illegible] cap. [illegible] cap. [illegible] cap. [illegible] de ord. cogn. [illegible] cap. [illegible] de restit. spoliat. cap. [illegible] cap. [illegible] de [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Greg. [illegible] =

n. 3

Sed licet [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] exceptio spoliationis [illegible] cap. [illegible] cap. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] spoliationis [illegible] [illegible] =

n. 4

Secunda difficultas [illegible] [illegible] [illegible] [illegible] spoliationis [illegible] [illegible] actionis [illegible] exceptionis [illegible] actionis [illegible] [illegible] adversarij [illegible] exceptionis [illegible] [illegible] [illegible] spoliationis [illegible] [illegible] actionis [illegible] adversarij [illegible] [illegible] [illegible] exceptionis [illegible] de exceptionibus [illegible] adversarius [illegible] spolij =

n. 5

Tertia difficultas [illegible] [illegible] [illegible] [illegible] [illegible] spolij [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] spoliatus [illegible] [illegible] adversario [illegible] spoliatus [illegible] [illegible] de [illegible] [illegible] spolio [illegible] spoliationem [illegible]

Cap. [illegible] cap. [illegible] [illegible]

repellitur a pers. pro sententia, [illegible] exceptionibus [illegible] in appellatur [illegible] acceptata [illegible] [illegible] cap. [illegible] ultimo [illegible] cap. [illegible] de except. spoliat. [illegible] respondet. =

n.° 6.

Quarta et ultima difficultas [illegible] eandem [illegible] dirigitur [illegible] affirmatur diversos spoliatos [illegible], vel diversis temporibus [illegible]; [illegible] in casu [illegible] judicio [illegible] spoliato [illegible] permittendum [illegible] [illegible] spoliatus [illegible] licet [illegible] [illegible], [illegible] privilegiatus [illegible] privilegio. leg. ult. ff. [illegible] leg. [illegible] 4. § ult. [illegible] 12. ff. de [illegible] l. 1. [illegible] 12. [illegible] [illegible] cap. [illegible] de [illegible] [illegible] spoliati [illegible] spolii [illegible] [illegible] dicitur [illegible] =

n.° 7.

His difficultatibus [illegible] dicendum [illegible] [illegible] facilius [illegible] [illegible] [illegible]

de [illegible] [illegible]

[illegible]

n.° 8.

Secundo [illegible]

de [illegible] spoliis [illegible]

[illegible]

n.° 9.

Sed [illegible] spoliatus [illegible]

[illegible]

[illegible] aut sermentis cedendo [illegible], igitur in recte diximus restitutionem spolii facta [illegible] premissis esse restituendum

[illegible] dicendum [illegible] privilegii spoliatoris, quod licet [illegible] indulgea-

tur, [illegible] privilegii [illegible], valde [illegible] diversum est ab illo. 1° quia hic tollitur facultas [illegible] spo-

liatori, [illegible] fuerat, et tollitur eius accusandi etiam [illegible] potestas ei [illegible]

[illegible] spoliatis beneficiis [illegible] competit, atque [illegible] datur, [illegible]

[illegible] differentiae cap. 2° de iudiciis, [illegible] adhuc hodie observatur, [illegible]

[illegible] differentiae [illegible] n° 24. de reformatione cap. 5., [illegible]

[illegible] rebus suis aut iuribus ecclesiasticis spoliatis cap. 2°. de restitutione spoliatorum [illegible]. = 3° [illegible] privilegii differt

[illegible] cesset [illegible], [illegible] fuerit [illegible] cap. 2°. [illegible] ut lite

contestata, [illegible] privilegium de [illegible] durat etiam post restitutionem [illegible] tempus [illegible]

[illegible] accusare [illegible], ut [illegible] placent ab accusationibus [illegible] =

4° denique differt quia privilegium [illegible] spoliatoris [illegible] spoliatori, [illegible]

[illegible] trahant [illegible] oriundum, alter [illegible] observandum [illegible]

beneficiis [illegible] spoliatis [illegible] spoliatoris, aut heredes successores [illegible], quiescente [illegible]

[illegible], etiam si spolii [illegible] vel [illegible], et [illegible]

talibus [illegible] proponitur.

n° 10.

[illegible] advertendum est [illegible] admitti exceptionem spolii [illegible] spolii in causis

[illegible] quae [illegible] exceptio alterius spolii repelli [illegible], [illegible] exceptio

debet admitti, [illegible] spolii vel [illegible] exceptio [illegible]

[illegible] spolium [illegible] exceptio, [illegible]

spolii [illegible] favorabile [illegible] spolii beneficiis [illegible]

[illegible] spoliatoris [illegible]

[illegible] cap. [illegible] 27 [illegible] exceptio [illegible]

[illegible] spoliatus exceptio obstet [illegible]

exceptio [illegible] spoliatio facta [illegible]

ad spoliatorem [illegible] exceptio [illegible] 18 de restitutione spoliatorum [illegible] exceptio [illegible]

[illegible] de [illegible], [illegible] spolii repellitur exceptio [illegible] = Exemplo

[illegible] spoliatus criminaliter accusabatur, [illegible] exceptio habet [illegible]

suis accusationibus respondere donec [illegible] restituatur, [illegible] exceptio [illegible] spoliatus [illegible]

[illegible] et [illegible] exceptio [illegible] spoliatus [illegible]

si privilegiatus et [illegible] restitutio [illegible]

[illegible]

n° 11.

[illegible] observandum est privilegiatos duppliciter concurrere. Vel [illegible]

privilegiati [illegible] cap. [illegible] de [illegible]

[illegible] ex pluribus [illegible] spoliati [illegible] restituere [illegible]

[illegible] privilegiatus [illegible]

[illegible] privilegiati [illegible] debet [illegible]

[illegible] habet privilegium [illegible], altero [illegible] privilegiato. [illegible]

si privilegiati [illegible] privilegiis, aut [illegible]

de damno vitando, [illegible] de lucro, alter de damno, [illegible]

[illegible] de minoribus. [illegible]

enim si vei quamadmodum leg. [illegible] ff. de [illegible] = Ubi concurrentibus pluribus privilegiatis, cuius potior sit ex regulis sequentibus. = Sit 1.° quod privilegium [illegible] praefertur privilegiato [illegible] ex quibus causis [illegible]

Sit 2.° quod ubi occurrit privilegiatus [illegible] privilegiato [illegible] praeferendus [illegible] leg. [illegible] ff. de [illegible]

de [illegible]. = Sit 3.° quod inter privilegiatos [illegible], aut [illegible], quorum privilegia [illegible]

ex eadem causa proficiscantur, uterque suo privilegio uti debet, nec se invicem impediunt d. leg. [illegible] §. ult. ff. de [illegible]

rebus. = Sit 4.° [illegible] quod ubi duo privilegiati [illegible] et speciali [illegible] privilegiatus certat de damno [illegible]

do, alter de lucro, potentius est privilegium [illegible] [illegible] leg. ult. §. licet [illegible]

C. de iure deliberandi. = Sit 5.° quod ubi [illegible] privilegiatus [illegible] aut de lucro, aut de damno [illegible]

[illegible] sit favorabilior [illegible] d. l. [illegible] ff. de [illegible] = Sit 6.° et ult.° quod ubi [illegible] privilegia [illegible]

[illegible], privilegiorum [illegible] concurrunt, [illegible] leg. [illegible]

n.° 12

[illegible] spolium [illegible] decidendum [illegible]

[illegible], [illegible]. [illegible] spoliatori [illegible] spolium. [illegible] privilegiato

[illegible] spolii [illegible] ut nulla remedio excludatur, [illegible] spoliato, ut [illegible]

[illegible] C. de [illegible] S. [illegible]

Vel [illegible], [illegible]

S. de rest.° spoliat. [illegible] cap. [illegible]

J. [illegible] q. 1. cap. 2.° [illegible] remedio [illegible], nec [illegible] de [illegible]

[illegible] spolii [illegible] cap. [illegible]

Facit [illegible] remedio [illegible] admittitur, [illegible]

expediri solent, [illegible] remedio [illegible] C. [illegible]

[illegible] Menochius de arbitrariis cas. 174. n.° 3. [illegible] 4. [illegible] n.° 65 [illegible]

cap. [illegible] n.° 6. [illegible] 4. [illegible] n.° 68. [illegible]

[illegible] remedium [illegible]

[illegible] spolii [illegible] tractari debeat [illegible] l. ult. C. [illegible]

[illegible] remedium [illegible] admittitur =

n.° 13

In 2.° [illegible] remediorum admitti in causa spolii [illegible]

[illegible] spoliationis, [illegible] superior [illegible], [illegible]

[illegible], [illegible] privilegiato [illegible]

solet privilegiatum [illegible] privilegiis modo [illegible] pariter privilegiati [illegible] cap. [illegible] de [illegible]

[illegible] cap. [illegible] de [illegible] l. [illegible]

l. [illegible] 11. §. ult. ff. de [illegible], [illegible] privilegio [illegible] privilegio, [illegible]

[illegible] privilegiorum [illegible] attenditur, [illegible]

et haec doctrina procedit si spolii [illegible] diversae, [illegible]

[illegible], [illegible], [illegible]

spolii admittitur, [illegible], [illegible] spolii [illegible]

[illegible] spolii, [illegible] remedium [illegible]

spolii [illegible] cap. [illegible]

[illegible] remedio [illegible] n.° 388. [illegible] §. [illegible] 4. [illegible] n.° 27. [illegible]

[illegible], [illegible], [illegible]

n.° 14

[illegible] spolii [illegible]

[illegible] remediorum [illegible]

[illegible] quorum [illegible] reservandi [illegible] formam [illegible] debet [illegible] corporis [illegible] reservari [illegible] Cuiuslibet [illegible] de [illegible] capitulo [illegible] Clement. [illegible] [illegible] spolij [illegible] = Nec [illegible] admittenda [illegible] reservationem [illegible] spolij [illegible] publice versatur [illegible] admittenda reservatio [illegible] delicto [illegible] libro 41. [illegible] delicto [illegible] num. 336. =

n.º 15.

Deinde [illegible] difficultas, quae dicebamus reservationes debere admitti in causa spolij, sive per modum actionis, sive per modum exceptionis [illegible] adulis, quoniam [illegible] observanda, aut [illegible] spoliatus proponitur a loco [illegible] reo, aut proponatur [illegible] actore [illegible] procedunt [illegible] proponatur a reo adversus actorem [illegible] actionis [illegible] excludit [illegible] ab adversario [illegible] spolij [illegible] alter ab [illegible] replicatur [illegible] spolij [illegible] loco [illegible] ab ipso actore [illegible] decisio [illegible] proponatur [illegible] actionis [illegible] excludat [illegible] adversarij [illegible] spolio [illegible] Rom. [illegible] dec. 4. [illegible] 6. [illegible] 9. 41. [illegible] =

n.º 16.

Nec [illegible] spolij [illegible] proposito [illegible] reservatio [illegible] spolio [illegible] spoliatus [illegible] proponitur [illegible] spolio [illegible] reservatio [illegible] spoliatus [illegible] reservationes [illegible] spolij [illegible] reservatio [illegible] admittatur [illegible] =

n.º 17.

Rursus [illegible] difficultas [illegible] dicebamus [illegible] spolio [illegible] reservationes [illegible] actionis [illegible] spolij [illegible] reservationem [illegible]

del Urbe [illegible] ut dicitur [illegible] decidendi [illegible] quia [illegible]

[illegible] spoliator [illegible] spoliatorum; qui [illegible] expoliavit, et [illegible] Vel reconveniat adversarium [illegible]

[illegible] spoliatus [illegible] spoliatus ante omnia restituatur. [illegible]

[illegible] spoliatio facta fuit [illegible] spoliator [illegible]

[illegible] Denique [illegible] spoliatus [illegible] restituendus [illegible]

n.° 48

Denique [illegible] difficultas, quae [illegible]

[illegible] privilegiis [illegible] privilegio [illegible] spolii [illegible]

[illegible] privilegium spoliati [illegible] Nec quidem [illegible]

[illegible] privilegiis [illegible] privilegiatis [illegible] spolii [illegible]

[illegible] spolio [illegible] spoliatus [illegible]

[illegible] spolii [illegible] spoliatio [illegible]

[illegible]

n.° 49

[illegible] spolii [illegible]

[illegible] decretum [illegible] spoliati [illegible]

[illegible] restitutionem [illegible] spoliatis [illegible]

[illegible] spolii [illegible] spoliatus [illegible]

[illegible] difficultas [illegible]

[illegible] spoliatus ante omnia [illegible] spoliatus [illegible]

[illegible] possessorio [illegible] spoliatus ante omnia restituatur [illegible]

[illegible]

[illegible] spoliavit [illegible]

[illegible] spoliatus [illegible]

[illegible]

[illegible]

n.° 50

Secundo [illegible] spoliatio [illegible]

[illegible] spoliatio [illegible]

[illegible] spolii [illegible]

[illegible] spoliis [illegible]

[illegible] spolii [illegible]

[illegible] spoliatio [illegible]

Controversiarum

[illegible] Olim [illegible] minime obstare quoniam [illegible] de quo [illegible] spoliatus [illegible]
Canonicum [illegible] admittendi [illegible] impediat [illegible] nec resti-
tutionis [illegible] quibus [illegible] fructus [illegible] percepti
[illegible] quo [illegible]
[illegible] deductio [illegible]
[illegible] =

[illegible] Nec [illegible] [illegible]
[illegible] decisum [illegible]
[illegible] spoliatus [illegible] restitutionem [illegible]
[illegible]
[illegible] bona [illegible]
[illegible] debet [illegible] restituere [illegible]
C. de furtis, ideoque spoliator habet [illegible] spoliatus, cap. [illegible] de restit.
spoliatorum [illegible] restituendus [illegible]
[illegible] debet [illegible] cap. olim [illegible]
[illegible] restitutionem [illegible]
[illegible] restituere [illegible]
[illegible] n. 62 [illegible] n. 182 [illegible] n. 113 [illegible]

[illegible] intelligendum [illegible]
[illegible] debet admitti [illegible]
[illegible]
[illegible]
[illegible] = [illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible] n. 434. [illegible] 8 Controversiarum cap. [illegible] =

[illegible]
[illegible]
[illegible]
[illegible]
[illegible] procurator [illegible]
[illegible]
[illegible]
[illegible] 37 [illegible]

[illegible]

[illegible] in quibuscumque casibus [illegible] coram [illegible]

[illegible] Capitulum [illegible] privilegia [illegible]

[illegible] coram [illegible]

[illegible]

[illegible]

[illegible]

[illegible] privilegia [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

Materia de Probationibus
In(cepta) anno Dni 1664
et finita 1665.

Schedas: 24.

Ad Decimum, Nonumque titulum de probationibus

Ad Rubricam

Necessitas primo commendatur. n. 1

Rursus nostrae Academiae praesidio ordinario nostri Pontificii hoc semestri exponendus [illegible] mandatur, auditoribus designatur titulus de probationibus, cuius materia absque controversia utilior, frequentior, ac magis necessaria in toto iure prudentiae iudicatur. et quamvis [illegible] commendat. [illegible] ff. de [illegible] ut hoc opportunum habebis. quippe cum leges sanctissime fuerint ut ius suum unicuique tribuatur. Leg. iust. 10 ff. de iust. et iur. [illegible] ... qui debent ad ordinem iuris procedere [illegible] C. de execut. rei iudicat. [illegible] probare [illegible] de [illegible] ... cap. unico ut Ecclesiastica beneficia sine diminutione conferantur [illegible] de except. [illegible] ... C. [illegible] de appellationibus [illegible] ... Salgado [illegible] de reg. [illegible] cap. [illegible] n. 139 [illegible]

n. 2

Plus aliis desideratur [illegible] absque probat. requiritur

Ex superioribus commendat. [illegible] probationibus [illegible] quamvis Menochius de praesumptionibus [illegible] ... [illegible] probat. [illegible] ... cap. unico de [illegible] Ecclesiastica beneficia [illegible] ... [illegible] Didacus Covarruvias [illegible] ... cap. 4. [illegible]

De definit. et accept. ubi probatio capitur. | n.° 3.

Hoc q.° nomen probatio de quo in sensibus ... [illegible] ... in singulari capitur ut cuilibet probationis speciei conveniat, originem trahit a verbo ... [illegible] ... docet Dondeus tit. ... cap. 1. ... [illegible] ... tanquam ... [illegible] ... propriae significat efficere ut id quod dicimus probum, rectum et verum judici videatur ... [illegible] ... de qua agimus judici ... cognitori fieri debet l. ... 12. ... ff. de tit. ... l. Lucius 83. ff. de condit. et demonstrat. cap. ex litteris ... hoc tit. ... [illegible] ... necesse significat ... [illegible] ... l. ... de jurd. ... l. ... C. ... aut docere ... [illegible] ... aut ostendere quod dicitur ... [illegible] ... C. ... probationes appellantur ... [illegible] ... per quam libet illud ... [illegible] ... ut res ... intelligatur, monstrando aut ostendendo ... [illegible] ... quod ... [illegible] ... affirmatur ... [illegible] ... l. ... 4. C. de edendo ... [illegible]

n.° 4.

... [illegible] ... Medices de definitionibus ... Didacus Perez ad ... 1. ... et Farinacius ... 36. n. 4. ... [illegible] ... quod probatio est ... ad ... [illegible] ... veritatis, et ad faciendam judici fidem debitis ... coram competentibus. ... [illegible] ... [illegible] ... inter actus judiciales ... [illegible] ... l. ... C. de condit. ... [illegible] ... de probationibus ... [illegible]

... [illegible] ... de ...

n.° 5.

... [illegible] ... de testibus ... [illegible] ... 4. C. de ... [illegible] ... l. ult. C. ... de ... [illegible] ... probare ... [illegible] ... probat. ... [illegible] ... 4. cap. ...

Margin notes:

Probatio ... [illegible] ... capitur.

V. cap. ex litteris h. tit. ... [illegible]

... [illegible] ... capitur.

cap. [23] ult. Universi de testibus, cum quidem probationis [illegible] diversimode commenorantur [illegible] rebus, dicentibus aliquibus duos sufficere [illegible] testes, aut instrumentum [illegible] cap. [illegible] [1°] probatio de [illegible] aliquibus quatuor [illegible], aliquibus duodecim, aliquibus denique [illegible] ut [illegible] Mascardus [illegible] speculator [illegible] reprobat. §. [illegible] Concordantiis [illegible] de regulis [illegible] nominat §. ult. [illegible] ad sex [illegible] reducit [illegible]. 1° [illegible] perfectas. 2° [illegible] 3° [illegible] 4° [illegible] 5° [illegible] [illegible] 4 =

n° 6.

Quamvis sit [illegible] probatio [illegible] testes, [illegible] aliquando [illegible] probari ex [illegible] cap. [illegible] ubi [illegible] 6. [illegible] C. de fideicommissis. L. [illegible] omissa ff. C. de liberali causa. = [illegible] difficultas [illegible] de testibus [illegible] sufficiant ad [illegible] [illegible] = Haec difficultas [illegible] valde [illegible] ut constat ex his [illegible] [illegible] solutionibus [illegible] [illegible] probari [illegible] [illegible] sicut [illegible] testes [illegible] [illegible] dignit. [illegible] ex [illegible] [illegible] ubi [illegible] solet [illegible] [illegible] solet [illegible] [illegible] de legatis [illegible] [illegible] [illegible] [illegible] [illegible] quamvis [illegible] = Quamvis [illegible] [illegible] =

n° 7.

[illegible] probationis [illegible] [illegible] alter [illegible] probatio [illegible] ex [illegible] cap. [illegible] cum [illegible] §. [illegible] de [illegible] [illegible] [illegible] [illegible] [illegible] ubi [illegible] [illegible] probatio [illegible] [illegible] [illegible] probatio [illegible] probationis [illegible] probatio = [illegible] [illegible] [illegible] probaverit [illegible] [illegible] cap. [illegible] 4. [illegible] [illegible] 27. ff. de [illegible] [illegible] Cum [illegible]

178

... similiter sit ..., ... quod differt ... [illegible]

... similiter ... transactionis ... = Aliud denique est necessarium quod ...

... differt, ... [illegible]

... differant ... quae ... ut tradit Mascardus ... et Pinelus ...

... limitatio ... [illegible] =

n.° 8

Descendit ... explanando ... [illegible]

... adeout ... [illegible]

... 74. ... nullo ... admittere ... [illegible]

... Duenas ... disputationum cap. 27. et Didacus Perez ...

lib. 8. ... [illegible]

... 7. n.° 26. ... n.° 218. ... differt

... = ... [illegible]

... sententia ... de confessis ... [illegible]

... de numeratione pecuniae, ... et Codice ... de confessis ... [illegible]

... Itaque confessio dicitur probatio, ... [illegible]

probat. ... C. de numeratione pecuniae, ... [illegible]

... de transactionibus ... [illegible]

... docent ... Decianus ... Pelaez ... 47. ...

... Nepos ... allegat. 25. n.° 157 ... =

n.° 9

Similiter ... [illegible]

... [illegible]

... significatio probationis ... [illegible]

... Navarrus ... [illegible]

... [illegible]

... Duenas ... [illegible]

... cap. 27. ... = ... [illegible]

... [illegible]

... [illegible]

... [illegible]

... [illegible]

... [illegible] =

n.° 10

Denique ... [illegible]

... [illegible]

... cap. 15. ... [illegible]

[illegible] de [illegible]

cap. ad [illegible] de [illegible] cap. illorum 4. [illegible] cap. 2. de [illegible] lib. 6. cap. [illegible] regularibus [illegible] lib. l. Imperator (Licet) ff. de legatis 1°. l. filius 6. ff. de [illegible] l. tutores C. de periculo tutorum [illegible] 34. C. ad [illegible] Juliam de adult. [illegible] C. de [illegible] publicis lib. 10. docent Mascardus de probat. [illegible] 40. Menochius [illegible] lib. [illegible] Mantica de [illegible] lib. [illegible] bene [illegible] 76. [illegible] lib. [illegible] 36. et alij plures quos refert [illegible] cap. 4. n. 40. [illegible]

[illegible]

[illegible] ut tradit Menochius lib. [illegible] 48. et [illegible] lib. 7. [illegible] =

n. 2.

[illegible] [illegible]

[illegible]

n. 3.

[illegible] ut [illegible]

[illegible]

Si quidem quamvis [illegible] in eo principali [illegible] in l. [illegible] C. de [illegible], [illegible] [illegible] ut [illegible] [illegible] de delictis [illegible] cap. 2. ubi affirmat [illegible] unius testis, qui facit semiplenam probationem [illegible] [illegible] ad [illegible] [illegible] [illegible] Mascardus [illegible] Farinacius [illegible] q. 36. n. 11. = [illegible] semiplena probatio [illegible] [illegible] [illegible] ex dicto unius testis. [illegible] ex [illegible] litterarum [illegible] [illegible] [illegible] à Mascardo [illegible] 12, et à Farinacio [illegible] de [illegible] q. 36. n. 11. [illegible] ex dicto unius testis [illegible] semiplenam [illegible] probationem [illegible] [illegible] testibus l. 1. [illegible] [illegible] testes faciunt plenam probationem [illegible] de testibus, sequitur ut unus faciat semiplenam [illegible] [illegible] admonendi [illegible] [illegible] [illegible] testes, velut in [illegible], unum [illegible] facere semiplenam. = [illegible] semiplena [illegible] [illegible] litterarum, de quo [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] testes [illegible] [illegible], vel [illegible], vel mortui sunt, [illegible] [illegible] [illegible] obligatio de qua [illegible], vel quia subscriptio [illegible] [illegible], vel [illegible] [illegible] [illegible], vel ex publicis archivis [illegible] [illegible] [illegible] [illegible] [illegible] Post [illegible] 4 p. [illegible] cap. 1. n. 26. et 27. Cobb. [illegible] 30 n. 22 [illegible] n. 13

[illegible] ex [illegible] [illegible] [illegible] [illegible] semiplena probatio

De [illegible] semiplenis [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] C. [illegible] [illegible] [illegible] [illegible], probationem habeat, nihil [illegible], nec semiplene, aut [illegible] [illegible] [illegible] [illegible] testes [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] testes [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] semiplena [illegible], ut docent Felinus [illegible] [illegible] [illegible] 7. [illegible] Cobb. [illegible] cap. 11. n. 6. = Postremo [illegible] [illegible] [illegible] [illegible] semiplenam [illegible] [illegible] [illegible] de testibus [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] ut docent Mascardus [illegible] [illegible] n. [illegible] 759. Ma[illegible] de [illegible] n. 86. et Tra[illegible] [illegible] Var. [illegible] [illegible] [illegible] semiplenam probationem [illegible] [illegible], velut [illegible] [illegible] [illegible], [illegible] [illegible] [illegible] privata [illegible] [illegible] [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] semiplenam [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] semiplena [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] semiplena probatio, [illegible] semiplena [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Menochius et Farinacius [illegible] [illegible] [illegible] docere [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

n. 14

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible]

[illegible] omissis [illegible] in probatione [illegible] ... nec [illegible] probet [illegible] procedit [illegible] ... Contenta in libello, aliter [illegible] ... probatio [illegible] Consistens [illegible] partes judicii, nisi [illegible] ... de iure [illegible] = [illegible] descendit [illegible] qualiter [illegible] ... probat [illegible] Victoriam [illegible] ... succumberet [illegible] ... recentiores ... Cum [illegible] C. [illegible] de probationibus, [illegible] probationis onus [illegible] docet [illegible] ... onus [illegible] de rei Vindicatione [illegible] ... [illegible] ... quidem [illegible] probationis [illegible] ... [illegible] ... debere [illegible] ... [illegible] ... definitione [illegible] ... [illegible] ... [illegible] ... Mascardus [illegible] 96 n. 48 [illegible] =

n. 15

[illegible] [illegible] ... probat. [illegible] ... de rei Vindicatione [illegible] ... C. [illegible] ... [illegible] ... C. [illegible] de probat. [illegible] ... [illegible] ... C. [illegible] ... Cicero [illegible] ... [illegible] ... [illegible] ... [illegible] ... [illegible] ... Mascardus [illegible] ... [illegible] =

De onere [illegible] ad [illegible] [illegible]

+ [illegible]

+ [illegible]

n. 16

[illegible] ... [illegible] clandestino [illegible] ... [illegible] ... [illegible] ... [illegible] ... [illegible] ... [illegible]

[illegible]

[illegible]

... terdio explicuimus = Verum hac [illegible] sententijs [illegible] omnibus, [illegible] placet dicere [illegible] ubi modus clandestine fit, aut [illegible] publice factus [illegible], vel [illegible] [illegible] ut docet [illegible] [illegible] cap. [illegible] de [illegible] lib. [illegible] n.° 3. [illegible] 4. [illegible] [illegible] n.° 10, si vir petat uxorem, [illegible] [illegible] [illegible] [illegible] [illegible] cap. [illegible] specialiter [illegible] declarat [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] specialiter [illegible] [illegible] [illegible] necessitas [illegible] [illegible] [illegible] [illegible] [illegible] indicat cap. [illegible] qui [illegible] accusare [illegible] [illegible] [illegible] [illegible] de testibus, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] ult. [illegible] [illegible]; [illegible] [illegible] cap. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] admitti [illegible] [illegible] ut [illegible] [illegible] de [illegible] [illegible]

barnis

n.° 17.

Deinde [illegible] [illegible] [illegible] 22 C. ad [illegible] [illegible] ult. [illegible] C. de [illegible] crimen, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] doctrinis. = [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] in criminibus, 1.° [illegible] [illegible] [illegible] criminibus; 2.° quia difficilis probatio [illegible] [illegible] fieri debet [illegible] [illegible], [illegible], testibus, [illegible] C. ad [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] debeat [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 974 [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] C. de [illegible] [illegible] [illegible] [illegible] necessitas [illegible] [illegible] [illegible] criminibus, [illegible] [illegible] specialiter [illegible] [illegible] crimina, [illegible] docent. =

[illegible] [illegible] l. 22 C. ad [illegible] [illegible] l. ult. C. de [illegible]

n.° 18.

[illegible] [illegible] [illegible] testimonia [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 1.° [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 2.° [illegible] n.° 154. [illegible] [illegible] [illegible] [illegible] [illegible] n.° 12 = 3.° [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] n.° 3. [illegible] 4. [illegible] [illegible] 2.° [illegible] 97. [illegible] [illegible] [illegible] [illegible] cap. 38. n.° 13. = 3.° [illegible] [illegible] [illegible] 12 [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] n.° 14. [illegible] [illegible] 49. [illegible] [illegible] [illegible] cap. 2.° = 4.° [illegible] [illegible] [illegible] 26. [illegible] [illegible] [illegible] [illegible] [illegible] n.° 551. [illegible] 186. [illegible] 64. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 6.° [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Bartol. [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible]

[illegible] concludens Menochius lib. 6. [illegible] 55. n. 7. [illegible] n. 7.
[illegible] Cum de [illegible] de quo [illegible] Menochius lib. 1. [illegible]
[illegible] Covarruvias [illegible] lib. [illegible] cap. 3. [illegible]
[illegible] lib. [illegible] cap. [illegible]
[illegible] de quibus [illegible] Mendoza [illegible] lib. 2. cap. 4. n. 52. [illegible]
et alii plures quos refert, et sequitur Communis [illegible] n. 9 [illegible]

n. 19.

[illegible] praeferre. [illegible] 6. [illegible] Veritas [illegible] et sequitur [illegible] debere judicare, [illegible] Thomas [illegible] art. [illegible] hac [illegible] debet Veritatem [illegible] 14. [illegible] Veritatem repraesentat [illegible] habere [illegible] tanquam [illegible] publicus minister [illegible] judicat tanquam publicus minister, [illegible] permittatur [illegible] 4. n. 2. [illegible] lib. 1. [illegible] cap. 29. Menochius lib. 5. de arbitr. [illegible] et alii plures quos refert [illegible] n. 9 [illegible]

Veritas [illegible] habet debere [illegible] Veritas [illegible] Veritatis [illegible] Veritas [illegible] lib. 6. [illegible] Veritatis [illegible] Veritas [illegible] cap. 4. cap. 17. [illegible] L. ult. [illegible] L. 9. [illegible] L. 28. [illegible] 16. [illegible] Menochius lib. [illegible] cap. 14. [illegible] lib. 4. Miscellanea [illegible] cap. 27. [illegible] et alii plures quos refert [illegible]

n. 20. [illegible]

n. 21

[illegible] Generale, [illegible] lib. 1. [illegible] lib. [illegible] n. 9. [illegible]

[illegible]

Marginalia:

[illegible] judicare [illegible]

[illegible]

[illegible]

habeat [illegible] [illegible] [illegible] facti [illegible] [illegible]. [illegible] de [illegible] [illegible] [illegible] [illegible]

solam [illegible] [illegible] [illegible] = [illegible] [illegible] [illegible] [illegible] probationes, [illegible] fidei [illegible]

que [illegible] probat [illegible] [illegible] [illegible], aut [illegible] [illegible] habet [illegible] [illegible]

[illegible] de [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] iudicare. [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] = [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] debet probare [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible], hoc [illegible] [illegible] [illegible] [illegible], aut [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible], nec [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

395 [illegible] [illegible] [illegible] [illegible] n.º 7. et 24. [illegible] [illegible] [illegible]

n.º 22 — Nec [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] ff. de [illegible] [illegible]. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

Veritas [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] docet [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] Veritas [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

L. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] L. [illegible] 15.

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] probat [illegible] [illegible] [illegible]

habet [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible], nullius [illegible]

[illegible] [illegible] [illegible] [illegible] = [illegible] [illegible] [illegible] [illegible] [illegible]

quis [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] nec [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] publica [illegible] [illegible] [illegible] [illegible] [illegible] debet [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] Veritas [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] probat [illegible] [illegible] [illegible] [illegible] [illegible] ut docet [illegible] [illegible]

n.º 23 — [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] n.º 17. [illegible] 4. [illegible]

[illegible] [illegible] [illegible] iudicare debere [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 46. [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] docent [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] L. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] debet [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] iudices [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] la Verdad que

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 10. [illegible] = [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

Margin: [illegible] [illegible] [illegible]

Margin: [illegible] [illegible] n.º 17. [illegible] [illegible] [illegible]

[illegible] art. [illegible] tempore ut docent plenius [illegible] Lib. 1 var. cap. 7 [illegible] Menchaca [illegible]
dialogo relatus [illegible] cap. 42 n. 2 et 3 [illegible] sufficient pro [illegible]
: [illegible] perfectam [illegible]:
: [illegible] intelligentiam [illegible]:
: [illegible]:

[illegible] [illegible]
[illegible] Henrici [illegible]

Quamvis [illegible] in Decretalibus [illegible] Regis [illegible] [illegible]
[illegible] judicaverunt [illegible] habet [illegible] Ricardo Regi [illegible]
[illegible] 1226. Magnus [illegible] intervallo [illegible] respexit ad
[illegible] Ricardi [illegible] habeant [illegible] ut [illegible] 7. [illegible] 126 [illegible]
[illegible] Ricardum [illegible] competentem [illegible] Catholicae [illegible]
[illegible] testatur [illegible] 126. [illegible] Mariana lib. 5. de rebus Hispaniae [illegible]
[illegible] Toletano [illegible] eidem [illegible]
[illegible] appellamus el Fuero Juzgo. [illegible]
[illegible] Decretalibus [illegible] Hispaniae cap. [illegible]
[illegible] Imperator [illegible]
[illegible] foedera [illegible] Regem Hispaniae [illegible]
[illegible] Ricardus [illegible] Gregorius 17. [illegible] Mariana [illegible]
[illegible] [illegible] Rex [illegible]
[illegible] respondit [illegible] 126. [illegible]
Imperii [illegible] habebat [illegible]
[illegible] Mariana lib. 5. cap. 9. [illegible] 1. [illegible]
[illegible] lib. [illegible] [illegible]

[illegible] [illegible] Venetiis

[illegible] deducitur. [illegible]
[illegible] cap. ult. [illegible] cap. 6. [illegible] 4. 5. [illegible]
[illegible] [illegible] [illegible] [illegible]
4. [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible]
[illegible] 499. n. 66. [illegible] [illegible] [illegible]
[illegible] n. 20. [illegible] [illegible] [illegible]
[illegible] 155. [illegible] [illegible]
40 [illegible] Antonius [illegible] [illegible] [illegible]
[illegible] n. 11 [illegible] [illegible] [illegible]

[illegible] C. de [illegible], de [illegible] cap. 6. et 7. [illegible]
aliosque Authores [illegible] ad [illegible] leg. 1. §. [illegible] [illegible] [illegible] Collect. [illegible]
[illegible] de [illegible] n. 16. [illegible] Collect. ad [illegible]
[illegible] Collect. ad Decretales Coll. 167 [illegible] ult. [illegible]
[illegible] [illegible] de [illegible] cap. [illegible] n. 7 [illegible]
[illegible]

n. 3.

Verum licet [illegible]
[illegible] Veritatem [illegible] difficilis [illegible] videtur [illegible] dubitationi [illegible]
[illegible] ut [illegible] Veritatem [illegible] [illegible]
[illegible] C. de [illegible] [illegible] Veritatem [illegible]
[illegible] Facultas [illegible] C. de [illegible]
[illegible] admittatur [illegible] probatione [illegible]
[illegible] Creditoris [illegible] videtur [illegible]
[illegible] Veritatis [illegible]
[illegible] cap. [illegible] n. 6. [illegible]
n. 7. n. 4. [illegible] Literarum [illegible]
[illegible] Collect. [illegible] n. 28 [illegible]
[illegible] n. 44 [illegible]
[illegible]
[illegible]

n. 4.

Secunda [illegible] quoniam [illegible]
[illegible] Vel [illegible]
[illegible] n. 6. [illegible]
[illegible]
[illegible]
[illegible] cap. [illegible]
cap. [illegible] n. 6. [illegible] videtur [illegible]
[illegible]
[illegible] cap. [illegible]
[illegible] cap. [illegible]
[illegible]

n. 5.

Tertia difficultas [illegible]
[illegible] cap. [illegible] de [illegible]
[illegible]
[illegible] cap. [illegible] n. [illegible]
[illegible] cap. [illegible]
[illegible]
[illegible] dependeat [illegible]
[illegible]
[illegible]
[illegible]

n.° 6. [illegible] et [illegible] ex [illegible] quia [illegible]
[illegible] quibus [illegible] in [illegible] l. [illegible] §. [illegible] de [illegible]
[illegible] cum [illegible] de [illegible] ad [illegible]
[illegible] ex [illegible] l. [illegible] 7. §. [illegible] 10. [illegible]
[illegible] l. [illegible] ff. de [illegible] [illegible]
[illegible] l. [illegible] ff. de [illegible]
[illegible]
[illegible]
[illegible] l. 4. §. ult. [illegible]
[illegible] =

n.° 7. [illegible]
[illegible] Imperatorem [illegible]
[illegible]
[illegible]
[illegible] l. 15. [illegible] 22. [illegible]
[illegible]
[illegible]
[illegible]
Imperatorem [illegible]
[illegible]
[illegible] Imperatoris et [illegible] =

n.° 8. [illegible]
[illegible]
[illegible] Reges [illegible] et Imperatorem [illegible]
[illegible] Imperatoris [illegible]
[illegible] ff. de [illegible]
[illegible] l. 4. [illegible] 7. [illegible] l. 9. [illegible] 15. [illegible]
[illegible]
[illegible] 74 [illegible]
[illegible]
[illegible]
[illegible] =

n.° 9. [illegible]
[illegible] Reges et Imperatorem [illegible]
[illegible] Imperatoris [illegible]
[illegible]
[illegible] 7. et [illegible] 18. [illegible]
[illegible]
[illegible] Imperatorem [illegible]
[illegible]

Cap. dictus [illegible] Contract. [illegible] obligatione [illegible] ad [illegible] observandum [illegible] pacto. =

N.° 10.

[illegible] difficultas [illegible] quatenus [illegible] ad dictus Principem et Regem [illegible], [illegible] effectus [illegible] contraxit, qd. [illegible] necessitas [illegible] ad implendum [illegible] Principes [illegible] ad [illegible] et privilegio [illegible] habet l. Princeps ff. de legibus [illegible] C. de [illegible] ff. de recept. arbitr. l. ille a quo §. [illegible] ff. ad S.C. Treb. [illegible] n.° 96. docent [illegible] ; nec [illegible] l. ff. §. l. n.° 46 [illegible] obligat. [illegible] =

N.° 11.

[illegible]

N.° 12.

[illegible] =

Ad quid actio ... [illegible]

n.° 13

Secundo animadvertimus ... [illegible] ... actiones, vel instrumenta quorum ... [illegible] ... ut ... L. 2. §. ... [illegible] ... ff. de edendo ... [illegible] ... Ulpianus in l. 2. ff. de edendo ... Donellus ... [illegible] ... Rebuffus ... [illegible] ... Donellus ... [illegible] ... Cujacius ... [illegible] ... =

Quinam vero instrumenta ... [illegible]

n.° 14

Attamen ... [illegible] ... l. 2. §. edendo ff. de edendo ... [illegible] ... l. 2. §. ... ff. de edendo ... [illegible] ... ff. de ... [illegible] ... =

De ... [illegible] ... de edendo ...

n.° 15

... [illegible] ... l. 1. §. ... ff. de edendo ... [illegible] ... l. 2. C. de ... [illegible] ... ff. de ... [illegible] ... Donellus ... [illegible] ... 499 ... [illegible]

[illegible]

et in capite cum inter de exceptionibus, et in cap. 1. de appellationibus [illegible] 6. [illegible] [illegible] [illegible]

[illegible] ... [illegible]

[illegible] ... peius a daretur [illegible] [illegible] ...

Consideret [illegible] cap. [illegible] de appellationibus [illegible] ... =

n. 16.

[illegible] instrumentum ... Veritatem [illegible]

quaeritur ... Videtur ... de fide instrumentorum, ... [illegible]

[illegible] ... exercere ... [illegible]

[illegible] ... Cartam [illegible]

[illegible] Bartoli ... [illegible]

de fabris ... instrumentum ... affirmat [illegible]

[illegible] ... Vel publicum instrumentum ... [illegible]

Scripturam per authenticas personas ... publica ... memoriam facti ... [illegible]

[illegible] ... Lib. 3. ... [illegible]

art. 4. n. 3. =, Nec debet ... instrumentorum ... [illegible]

[illegible] ... de fide instrumentorum 7. [illegible] ...

[illegible] instrumentum ... [illegible]

[illegible] ... de fide instrumentorum ... n. 17. [illegible]

[illegible] ... cap. 68. n. 21. 66. et 67. cum [illegible] =

n. 17.

[illegible] instrumentum ... [illegible]

[illegible] ... [illegible]

[illegible] ... de fide instrumentorum ... de Tabellionibus [illegible]

[illegible] ... 54. n. 18. ... [illegible]

[illegible] ... 37 ... 47 ... [illegible]

[illegible] publicum ... 57 ... 67 ... [illegible]

Denique ... [illegible]

[illegible] ... 13. n. 26. ... [illegible]

[illegible] ... [illegible]

anno [illegible] 1637 ... 44. n. 25. n. 4 ... [illegible]

[illegible] ... [illegible]

[illegible] ... [illegible]

[illegible] ... 342 ... [illegible]

n. 57 cum seqq. Castillo de tert. 7. cap. 9. n. 22 ... [illegible]

[illegible] ... n. 1. [illegible] =

n. 18.

[illegible] ... [illegible]

explicare ... [illegible]

[illegible] ... [illegible]

protocolis ... [illegible]

scripturas ... [illegible]

instrumentum ... publico ... [illegible]

[illegible]

de [illegible] instrumentum. = [illegible] ... nullius momenti [illegible] ... a radice [illegible] ... = [illegible] ubi instrum. authentico [illegible] protocollo fides [illegible] adhiberi [illegible] ... protocollum amisso [illegible] ... [illegible] Credulitu [illegible] ... de privilegiis = [illegible] ... instru[menta] authentica [illegible] ... discordantia [illegible] ... [illegible] = [illegible] ... protocolo [illegible] ... tabelliones nullatenus [illegible] ... [illegible] ... n. 29.

[illegible] tabellionis [illegible] ... instrumentum [illegible] ... protocollis [illegible] 1505 [illegible] 1525 [illegible] ... protocolla tabellionum [illegible] ... [illegible] fides [illegible] ... instrumentis [illegible] ... [illegible] n. 20.

[illegible] protocolli [illegible] ... tabellione [illegible] ... [illegible] instrumentorum [illegible] ... [illegible] tabelliones [illegible] ...

[illegible] (margin notes)

[illegible] ... instrumentum ... [illegible] ... ad [illegible] ... debeat ... Tabellionis ... [illegible] ... [illegible]

n.º 21.

De originali authentico et exemplari copiae.

[illegible] ... capitula authentica ... [illegible] ... publicae scripturae ... [illegible] ... instrumentum ... [illegible] ... fidem et authoritatem ... appellatur probatio probata ... [illegible] ... approbationibus ... [illegible] ... publicum instrumentum ... [illegible] ... [illegible] ... procedant ... [illegible] ... doctrina ... [illegible] ... instrumentum ... [illegible] ... [illegible] ... instrumentum ... [illegible] ... [illegible] ... instrumentum ... [illegible] ... vel ad [illegible] ... =

n.º 22.

Vide decidendum in (?) ... [illegible]

[illegible] ... [illegible] ... instrumentum ... [illegible] ... [illegible] ... exhiberet instrumentum ... [illegible] ... [illegible] ... [illegible] ... instrumentum ... [illegible]

[illegible] ... 199. et [illegible]

n.° 23

[illegible] non obstant [illegible] ...

[illegible]

n.° 24

Nec obstat [illegible] ...

[illegible]

n. 25 — Deinde [illegible]

[illegible] de interrogationibus [illegible] quo [illegible] interrogat[illegible] in judicio [illegible]

[illegible] admitti [illegible] interrogationes [illegible] [illegible] respondere [illegible]

[illegible] facilius veritas [illegible] excusent [illegible] difficile [illegible]

[illegible] receptum [illegible] interrogationes [illegible]

[illegible] interrogationibus [illegible] quanto [illegible]

[illegible] ad [illegible] veritatis [illegible] probationum difficultas [illegible]

[illegible] ordinantur ad comprobanda merita [illegible]

[illegible] declaret veritatem [illegible]

interrogationes [illegible] ad [illegible] probatio [illegible] ordinaria [illegible]

[illegible]

[illegible] quocumque [illegible]

[illegible]

[illegible] quacumque [illegible]

[illegible]

[illegible] interrogationes [illegible] repetere [illegible] Nec [illegible]

[illegible]

[illegible] interrogationes [illegible]

[illegible]

n. 26 — Deinique [illegible] primum [illegible]

Cautela [illegible] literas [illegible]

[illegible]

[illegible] literas [illegible]

[illegible]

[illegible] literas [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

n. 27 — [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

n enim peccat qui ad proprium instrumentum occultet, nisi aliter ex dispositione [illegible] ad dominum [illegible]
[illegible] commandatarius [illegible] mandati, quod [illegible] de instrumento aliquo [illegible], vel conventionis, [illegible]
vert [illegible], [illegible] quaestio, quae instrumento [illegible] hic lit. [illegible] designoris [illegible] figura 33.
ff. de O. et A. [illegible] Locum [illegible] deprobat. [illegible] instrumentis [illegible] de fide instrumentorum, [illegible]
licet peccet incurrat quisquis [illegible], et conventionis [illegible] servet, illo tamen non peccat, [illegible]
instrumentum proprium [illegible] in medio [illegible]. Atque si requisitus [illegible] exigitur [illegible] tenere, vel
videlicet [illegible] ad defendendum habere, nullo modo peccat, [illegible] proprium instrumentum occultet ad [illegible]
molestias, calumnias, et offensiones, quas [illegible] forte pati timeat, aut [illegible]. Nec tamen
veritatem occultet [illegible] crimine falsi, qui procedit in [illegible], quae veritatem aperire tenentur
ut iudices, testes, et alii, qui peccant [illegible] veritatem occultent, ac in medio [illegible] [illegible]
[illegible] aperire [illegible] veritatem [illegible] debent [illegible] veritatem occultent
[illegible] 22. q. 2. [illegible] quae [illegible] habent [illegible]
[illegible]
n. 28.

[illegible] doctrinae [illegible] procedere, [illegible]
[illegible] peccet [illegible] instrumentum [illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]

n. 29.

[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]

[illegible]

23

ff. de adquir. possid. docet [illegible] [illegible] de [illegible] = Verum [illegible] [illegible]
[illegible] quod [illegible] [illegible] [illegible] [illegible]
[illegible] Cum [illegible] [illegible] [illegible]
[illegible] =

n. 30.

Deinde [illegible] [illegible] [illegible] [illegible]
[illegible] Considerandum [illegible] [illegible] de [illegible]
[illegible] personas [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible]
[illegible] personarum [illegible] [illegible]
[illegible] [illegible] [illegible]
personarum [illegible] [illegible] = [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] cap. 63. n. 17. =

n. 31.

Nec [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] [illegible]
[illegible] Imperatore [illegible] [illegible]
[illegible] 17 [illegible] = [illegible] [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] = Nec [illegible] ff. de [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] [illegible]
[illegible] cap. 63. n. 13 [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] [illegible]
[illegible] =

n. 32.

Denique [illegible] 4 difficultas [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] =
[illegible] [illegible] [illegible]

Margin notes:

[illegible] [illegible]

[illegible]

[illegible] [illegible]

[illegible]

[illegible] quam [illegible] ut [illegible] de [illegible]
[illegible] Menochius [illegible] 449 [illegible]
[illegible]
[illegible]
[illegible] Cum [illegible] plura [illegible] exempla [illegible]
[illegible]
[illegible]

n.o 93 [illegible]

[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]

n.o 94 [illegible]

[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible] Principes [illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]

n.º 95

Vlt.º [illegible] singularem est [illegible] decisionem, quatenus [illegible] causas seculares [illegible] temporalibus [illegible], requirendo esse [illegible] recognoscant. [illegible] Fabius [illegible] de feudis n.º 4 [illegible] quoris ibidem [illegible] Dominus Valenzuela in [illegible] Pauli [illegible] seqq. = [illegible] decisio [illegible] de feudis, [illegible] ad Regem Franciae, [illegible] inter ipsos Regem Franciae et Regem [illegible] recognoscentes [illegible] Franciae [illegible] feudalis erat [illegible] ad [illegible] feud. [illegible] Rex Franciae [illegible] recognoscant [illegible] causas feudales [illegible]. [illegible] feudali [illegible] de feudis [illegible] intelligendus [illegible] feudali [illegible].

[margin:] [illegible] Castilliae

n.º 96

Deinde [illegible] in Castellae [illegible] requireret [illegible] successione in [illegible] regno [illegible] successoris [illegible] regis [illegible] hereditario [illegible] de feudis [illegible] in [illegible] celebratur observare [illegible] tempore [illegible] Universitatis [illegible] Videbatur [illegible] successione hereditaria [illegible] regno [illegible] =

n.º 97

Quaeritur [illegible] Regem [illegible] successio [illegible] sanguinis, [illegible] Regem [illegible] filius [illegible] de feudis n.º 15. [illegible] successione [illegible] sanguinis [illegible] n.º 48, [illegible] de hereditate [illegible] n.º 15 [illegible] refert [illegible] Val [illegible], [illegible] hereditario, [illegible] in regno succedere [illegible] succedit filius [illegible] Nolden [illegible] cap. [illegible] n.º 4 [illegible] Veruntamen [illegible] 4 [illegible]

[margin:] Vt sanguinis deferri [illegible] defenditur. =

et Principibus Germaniæ ex [illegible] consuetud. et privilegijs [illegible] cap. Venerabilis, [illegible]
[illegible] habito [illegible] electionis dato, vel Hereditariæ successionis delato, ut v. [illegible]
[illegible] habeat ab antecessore, sed ex novo [illegible] procedat, successoribus [illegible] videtur credere. [illegible]
dit qd nec Imperator qui [illegible] assumitur, nec [illegible] regnum occupat ex [illegible] antecessoris [illegible]
[illegible] tri [illegible] de [illegible] =

n.o 38

Hoc ita animaduerso Respondemus [illegible] difficultati [illegible] pacto [illegible]
[illegible] ad successores transferenda, [illegible] dignitatis facta fuerunt et necc. erant [illegible]
regno, et imperio, [illegible] filiorum [illegible] huius regni Hispani inter Reges [illegible] Impera-
tores ut apparet [illegible]. [illegible] Plane [illegible] ex [illegible] 144
de off. [illegible] judicis delegati cap. [illegible] de [illegible]. Verba Hispani regni successores [illegible]
[illegible] necessitas, aut [illegible] regni, vel imperij [illegible] de [illegible] cap. [illegible] 4. [illegible]
[illegible] 27 [illegible] de rebus Creditis [illegible] laudemiaque alienationis et dona [illegible] Reges Coron [illegible]
[illegible] firmas [illegible] successoribus [illegible] debeant ex [illegible]
Ludovicus [illegible] 63. [illegible] cap. [illegible] 4. 96 [illegible] l. 15. tit. 10 [illegible] nova recopilacion [illegible]
allegat [illegible] et Molina [illegible] lib. 11. tit. 7. [illegible] recopilationis [illegible] = [illegible] dicitur
[illegible] aut necc. regno, [illegible] regno [illegible], nam illi [illegible] successoribus [illegible]
[illegible] posterioribus [illegible] cap. de [illegible]
S. de jure jurando. [illegible] Regnicolis, [illegible] tenetur [illegible]
[illegible] religionis, sed successor tenetur [illegible] vinculo religionis [illegible]
[illegible] ad [illegible] D. Thom. [illegible] 98. art. 2. ad 4. [illegible] refert [illegible] Thomas Sanchez [illegible] Summ.
Moral. [illegible] 13. [illegible] =

n.o 39.

[illegible] doctrina [illegible] videtur [illegible] Uni-
versis de voto [illegible] ex [illegible] 17. [illegible] ex voto
[illegible] tenetur [illegible] hered. [illegible] observauerit, [illegible] ex voto [illegible]
[illegible] Doctoris doctrina 2. [illegible] art. 2. ad 4. [illegible] art. 2. ad 4. [illegible]
[illegible] = [illegible] filius [illegible] regno, [illegible]
[illegible] paterna [illegible] = [illegible] difficultati Respondemus [illegible]
[illegible] filij Regis [illegible] voti [illegible]
[illegible] voti [illegible] reale, aut mixtum fuit, [illegible] 8. [illegible] 7. [illegible]
[illegible] personalis [illegible] filius [illegible] paterna [illegible]
[illegible] voti [illegible] vinculo religionis [illegible]
[illegible] voti [illegible]
[illegible] Sanchez [illegible] cap. 11. n. 13. [illegible] major [illegible]
[illegible] voti [illegible] regni [illegible]
[illegible] voti [illegible] regno
Successor [illegible] propriæ personale [illegible]
[illegible] exclusione [illegible] voti reale, [illegible]
[illegible] voti, [illegible]
[illegible] =

n.° 40.

Rursus [illegible] obstat 3.ª difficultas superius adducta, qua dicebamus inter Atangildum Regem et Imperatorem Justinianum initum nullo pro[illegible] [illegible] [illegible] ex leg. 1. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible], quoniam [illegible] parte de quibus [illegible] aut simplicia, [illegible] efficaciam ad opera [illegible]. Quod sequentibus probatur rationibus. 1.ª quia [illegible] [illegible] [illegible] [illegible] [illegible], et Justinianum, atque [illegible] [illegible], publica pacta erant, et [illegible] [illegible], [illegible] [illegible] [illegible] [illegible] l. [illegible] §. l. legitima. ff. de pactis. = 2.ª quia ex [illegible] [illegible] pacta [illegible] [illegible] fuisse solemni stipulatione vallata ad [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] solent, [illegible] ex pacto, [illegible] ex stipulatione [illegible] [illegible] l. [illegible] §. [illegible] ff. de pactis, l. [illegible] 15 ff. [illegible] = 3.ª [illegible] [illegible] inter Principes facta efficaciter [illegible] obligant ut [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] promissio [illegible] [illegible] [illegible] l. [illegible] de pactis. = [illegible] [illegible] de pactis [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible], [illegible] [illegible] [illegible] = [illegible] [illegible] [illegible] [illegible] [illegible] de pactis [illegible] [illegible] [illegible] [illegible] [illegible] solemni [illegible] [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] §. [illegible] 11 [illegible] stipulat. l. [illegible] 30 ff. de V. O. = [illegible] 24. [illegible] de pactis [illegible], [illegible] de contractibus, [illegible] §. [illegible] =

n.° 41.

[illegible] [illegible] [illegible] efficaciam habeant [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Principes [illegible] [illegible] [illegible] obligandi [illegible] pacto, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] tradita, multo magis [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] de pactis [illegible] Principes liberantur, [illegible] [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] l. [illegible] ff. de [illegible] et Vectigalibus l. [illegible] [illegible] 26. C. de [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Principibus [illegible] [illegible] [illegible] [illegible] [illegible] ff. de [illegible] l. [illegible] C. de [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] C. de [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Molina [illegible] [illegible] 4 [illegible] 3. n.° 63. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] valeat Principes [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] l. [illegible] §. [illegible] [illegible] [illegible] [illegible] l. [illegible] 3. C. de [illegible] [illegible] [illegible] [illegible] [illegible] privilegia [illegible] [illegible] [illegible] [illegible] [illegible] Principe [illegible] = [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Principes [illegible] [illegible] [illegible], aut privilegia [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] de [illegible] l. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] ff. de [illegible] [illegible], [illegible] Principes [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Principe, [illegible] [illegible] [illegible] [illegible] n.° 12. =

n.° 42.

[illegible] [illegible] [illegible] difficultas, qua dicebamus Principes [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible], [illegible] [illegible] Principes [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Principes [illegible] [illegible] legibus, aut legibus [illegible] ab antecessoribus [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Principes [illegible] [illegible] [illegible] [illegible] [illegible] ad observantiam legis [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

36

in Principe, ex quibus [illegible] Vi Coactiva [illegible] [illegible] habet [illegible] Praeceptorum

Theol. [illegible] art. 5. [illegible] utraque legis pars efficacia [illegible], quod Vi directiva Princeps tenetur

ex Virtute et efficacia ejusdem legis, ideo quando illam transgreditur, peccat [illegible] ejusdem speciei [illegible]

peccant [illegible] [illegible] legislatio [illegible] ex Deo [illegible] ad illud provenire

[illegible] [illegible] [illegible] [illegible] potestas [illegible]

[illegible], Quibus [illegible] mediante [illegible] aut alio titulo legitimo. [illegible] et Princeps legem faciens [illegible]

ta authoritate [illegible] illius sit, [illegible] tanquam [illegible], et minister Dei, efficaciam legis ad obli-

gandum [illegible] pendet ex voluntate Dei [illegible] legislatoris, [illegible] Vult [illegible] humanus legislator [illegible] habet [illegible]

[illegible] [illegible] = [illegible] ad Vim Coactivam aliud observandum est, [illegible]

[illegible] [illegible] [illegible] [illegible]

[illegible] Princeps [illegible] [illegible] [illegible]

[illegible] Princeps [illegible] [illegible] [illegible]

[illegible] de legibus [illegible] [illegible] [illegible] [illegible]

n.o 43

[illegible] Princeps [illegible] [illegible] obligari

[illegible] [illegible] [illegible] [illegible]

[illegible] procuratoris Caesaris [illegible] [illegible]

[illegible] ex Principis [illegible] Voluntate [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] de [illegible] [illegible] 41 [illegible] Venerabilis [illegible] 13

[illegible] [illegible] legitimi [illegible] [illegible] Tyrannus [illegible]

ad [illegible] Compelli [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] Principis [illegible]

[illegible] [illegible] [illegible] Principem [illegible]

[illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible]

[illegible] Peregrinus [illegible] [illegible] Petri Molina [illegible]

[illegible] [illegible] 291 [illegible] [illegible] Voluntate [illegible] Principis [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] =

n.o 44

[illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] =

[illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] =

[illegible] [illegible] [illegible] [illegible]

[illegible]

dicimus quod cum in iste judicio nihil aliud [illegible] ubi extabat [illegible] ordinaverit, vel quascumque [illegible] ad [illegible] plurimos [illegible] l. 1. §. [illegible], merito exhibitio [illegible] postulatur, et facienda [illegible] l. 1. §. [illegible] = Nec [illegible] facit [illegible] l. si quis [illegible] ff. ad l. Corneliam de falsis, [illegible] docent [illegible] Vidus [illegible] de tabulis exhibendis [illegible], quando [illegible] ventris [illegible] filii nati, aut posthumi, quod [illegible] ventris [illegible] extraneis [illegible] damnarentur, et [illegible] ff. [illegible] bonorum [illegible] alterius extraneis [illegible] aut [illegible] morte [illegible], aut quando [illegible] falsum [illegible] nullius [illegible] tabulas [illegible] Cessat [illegible] exhibitio frustra postulatur. [illegible] facit [illegible] l. si quis [illegible] ff. ad l. Corneliam de falsis [illegible] l. si quis 38. §. [illegible] ff. de poenis, [illegible] tradit [illegible] ad Africanum in l. [illegible] legatis [illegible] =

n.º 45

[illegible] videtur difficultas [illegible] tabulis exhibendis [illegible] docetur [illegible] Cessare quando [illegible] publicus [illegible] hoc [illegible] in [illegible] aut [illegible] tabularum [illegible] propositum [illegible] a [illegible] tract. [illegible] auth. Consultissimi §. [illegible], utque [illegible] difficultas dissolvatur, [illegible] falsi [illegible] quando [illegible] cessat, [illegible] §. [illegible] falsi [illegible] postea proponetur, illud [illegible] ult. ff. de tabulis exhibendis ut docent [illegible] §. [illegible] falsi. [illegible] quando [illegible] interdicto, [illegible] falsi [illegible] nullus [illegible] Criminalis, et [illegible] tabulis [illegible]. Crimina [illegible] manifestatur l. [illegible] §. si quis dolo ff. de tabulis exhibendis [illegible] praejudicium [illegible] criminalis, et maior sit [illegible] Civi[illegible] [illegible] l. [illegible] 54 ff. de judiciis. = [illegible] exhibitio [illegible] plurimi [illegible] l. 1. C. de edendo, [illegible] l. [illegible] 6. §. ult. ff. [illegible] exhibitio [illegible] Originalis [illegible] [illegible] Vitandos [illegible] exhibeat [illegible] protocolis [illegible] notarius, [illegible] exhiberi [illegible] docent [illegible] 15 [illegible] 459. [illegible] observ[illegible] vera [illegible] =

Secundo [illegible] 15 [illegible] ff. de [illegible]

n.º 46.

[illegible] plures Creditores [illegible] debitoris [illegible] Cerruparentur, [illegible] ut [illegible] [illegible] Creditores [illegible] debitores, [illegible] judicantur. [illegible] absoluta [illegible] [illegible] = [illegible] difficultas dissolvitur, [illegible] Creditores [illegible] bonorum [illegible] Cum sint [illegible] quod [illegible] = [illegible] postea [illegible] [illegible] Cognita [illegible] hoc quidem difficilius [illegible] Creditores [illegible] sufficiunt pro [illegible] pro arbitrio [illegible] si quidem unicuique [illegible] dominus liber [illegible] licet

Cap. 1°. de probationibus

Verum in dicto casu cum de ita postulari ab actore in d. l. Amplius ne instrumentum veri necesse sit quod licet edictio postulatur, nam depositarius instrumentorum [illegible] Creditum, de Custodia, et administratione disspendio [illegible], vel operet quod [illegible] onerentur [illegible] tit. in l. [illegible] 4. § v. [illegible] conveniatur, ita docent Paulus Castrensis et Bartolus in loco dicto [illegible] Amplius. =

n.° 47.

Secundo [illegible] l. ult. in fine C. de edendo, ubi [illegible] de ea instrumentum faciens a reo [illegible], [illegible] non [illegible] petitionis fundatur ex instrumentis illius [illegible] fundata actoris intentio permittatur [illegible] et [illegible] ex instrumentis, quae reus tenet, [illegible] absolute [illegible] =

Haec difficultas [illegible] Bartolus et [illegible] in d. l. ult. n.° 15 et 16. et [illegible] ad [illegible] lib. 27. [illegible] Variis [illegible] solutio [illegible] reum [illegible] instrumentum ad coadjuvandam actoris intentionem, [illegible] l. [illegible] 436 § [illegible] ff. de [illegible] quod reus teneatur [illegible] § [illegible] ff. [illegible]. Cuius rei exemplum [illegible] si actor [illegible] instrumentum quod sufficeret ad probationem, et reus [illegible] instrumentum [illegible], actore postulante compellitur [illegible] proferre instrumentum quod penes se habet [illegible] n.° 27. Si actor petat pecuniam, [illegible] [illegible] obligatio [illegible] reus instrumentum habet [illegible] specialiter [illegible] instrumentum edere tenetur, quia est adminiculum ad declarandum [illegible] ad probandum principale factum = [illegible] pecuniae quam actor [illegible] probet, [illegible] [illegible] petere [illegible] l. [illegible] 48. ff. de [illegible] §. 791. [illegible] Lopez [illegible] Pacianus [illegible] n.° 100. =

n.° 48.

In [illegible] quod [illegible] reus compellitur [illegible] instrumenta [illegible] Controversia [illegible] [illegible] De Consequentia quod [illegible] probandam [illegible] instrumentum [illegible] actoris [illegible] coadjuvant [illegible] [illegible] Consideratur, ut docet [illegible] lib. 1. cap. 48. n.° 1 [illegible] actor [illegible] probatum [illegible] adminiculum ad [illegible] [illegible] dubium [illegible] instrumentum a reo [illegible] [illegible] reus [illegible] edere instrumentum [illegible] actoris [illegible] petitionis = [illegible] l. ult. [illegible] probaret, [illegible] reus instrumentum [illegible] adminiculum, [illegible] reus [illegible] [illegible] [illegible] factum [illegible] [illegible] probationem [illegible] actor [illegible] instrumentum [illegible] debet [illegible] ff. de [illegible] n.° [illegible] [illegible] Thesaurus [illegible] cap. 7. littera L. et [illegible] =

n.o 49

Ad ultimo dicitur in [illegible] ad [illegible] § item Quia ff. de [illegible] ubi affirmat [illegible] in ead. numerata fisco actum [illegible] instrumentorum [illegible] [illegible], [illegible] deter in l. [illegible] ff. de edendo, nam [illegible] dicitur quod nulla [illegible] instrumenta fisco exhibeantur, [illegible] quibus [illegible] [illegible] dicens l. [illegible] [illegible] [illegible] affirmatur [illegible] cogendo ad [illegible] fundandam actionem [illegible] = [illegible] [illegible] dissolvendo [illegible] controverti solet [illegible] decedendo [illegible] qui petit instrumenta fiscus, [illegible] licet in hac re alii affirment, alii vero negent, [illegible] [illegible] [illegible] [illegible] [illegible] nisi [illegible] privilegium instrumentum ostendatur, [illegible] in casu [illegible] fiscalibus [illegible] [illegible] [illegible] extra in l. [illegible] [illegible] ff. de [illegible] fisci. [illegible] privilegii [illegible] [illegible] [illegible]

Quia ultra [illegible] [illegible] [illegible] [illegible] [illegible] privilegii fisco [illegible] privilegia [illegible] =

[illegible] [illegible]

[illegible] [illegible]

Decretum

ff. [illegible]

[illegible]

Verg.

Glossema ad Rubricam Sicut Cap. 2. Lib. 2. tit. de probationibus.

Noster [illegible] quem [illegible] et [illegible] auctores habet Alex. III Summus [illegible] Catholice Ecclesiae Romanus Pontifex, ut [illegible] demonstrat, qui mortuo Adriano 4. cui successit [illegible] Romanus [illegible] et duorum Cardinalium [illegible] anno 1159. et summo [illegible] gubernavit [illegible] ipsius [illegible] fuit electus a tribus Cardinalibus Octavianus Cardinalis presbiter Sancti Clementis, [illegible] opposuit [illegible] placatis [illegible] Federico, et aliis Imperatoribus, ut docent Platina et alii scriptores de Vitis Pontificum, [illegible] Petrus Gregorius [illegible] de [illegible] Cum [illegible] gubernasset, [illegible] inter quas [illegible] [illegible] probationes [illegible] legitime [illegible] [illegible] probationum genera [illegible] sufficerent nisi [illegible] [illegible] deferri, nisi deficiente [illegible] [illegible] legitimis probationibus [illegible] =

n. 2. Ex [illegible] debet [illegible] habet. [illegible] probabit [illegible] debet [illegible] Canonico [illegible] cap. finali de iure iurando, cap. [illegible] de procuratoribus, cap. ult. [illegible] cap. ult. 55. [illegible] probationibus cap. [illegible] 18. [illegible] cap. ex litteris 4. [illegible] cap. [illegible] 8. cap. [illegible] 22. [illegible] 22 q. 4. [illegible] admonendi 31. ff. de iureiurando, L. edicto § [illegible] ff. de quaestionibus, L. [illegible] C. de fideicommissis [illegible] L. [illegible] C. de iureiurando [illegible] Panormitanus [illegible] Felinus, et alii [illegible] cap. [illegible] 1. § [illegible] 4. [illegible] Menochius de arbitrariis [illegible] casu 464. Mascardus de probationibus [illegible] 22. [illegible] 954 [illegible] Farinacius [illegible] 2. § 2. [illegible] cap. 82 [illegible] 24 [illegible] cap. 22. [illegible] et alii plures [illegible] Antonius Gomez [illegible] 3. Variarum cap. 13. de [illegible] n. 20 [illegible] cap. 13. n. 2 [illegible] =

n. 3. Sed quamvis [illegible] veritati [illegible] [illegible] debeat [illegible] Canonici [illegible] ut [illegible] L. ult. C. de fideicommissis, [illegible] 34. [illegible] ff. de iureiurando, [illegible] habet, [illegible] cap. 2. [illegible] de iureiurando [illegible] =

n. 4. [illegible] probationis [illegible] cap. [illegible] 23. de testibus [illegible]

Ubi [illegible]

+ cap. ult. [illegible]

unico test. [illegible] adhiberetur [illegible] in cap. 36 [illegible] testamentum [illegible]

[illegible] de rebus [illegible] dubiis [illegible] post plenam probationem [illegible]

probauerit illi deferetur iuramentum [illegible] in l. [illegible] [illegible] 10. ff. de [illegible]

[illegible] Doctrina [illegible] cap. [illegible] 12 et [illegible]

17 de iurando, et alii quos refert [illegible] Barbosa Collect. ad [illegible] =

n.º 5

[illegible] difficultas assignatur [illegible] qua docetur [illegible]

tantam authoritatem ut sufficiat [illegible] quam [illegible] plenam probationem habet. [illegible]

[illegible] habet [illegible] cap. [illegible]

de legibus [illegible] de consuetud. [illegible] lex [illegible] abrogat [illegible]

[illegible] de legibus [illegible] de [illegible]

iuramentum deferri post [illegible] probationem [illegible]

[illegible] contraria [illegible] deferendum [illegible] plene probata [illegible] =

n.º 6.

[illegible] posterior difficultas [illegible]

[illegible] consuetudinis ut quaeuis [illegible] scandalumque generet, [illegible]

hoc difficilis [illegible] cap. [illegible] consuetudo de [illegible] spirituali [illegible]

duorum compatrum filios, [illegible] consuetudo [illegible] scandalum generet [illegible]

corruptela dici [illegible] hoc [illegible] filios duorum compatrum [illegible]

[illegible] de cognat. spirituali [illegible]

quos [illegible]

haberent [illegible] iurandum deferetur [illegible] plene probatum [illegible] =

n.º 7

[illegible] difficultatibus [illegible] dicimus [illegible]

iurandum deferendum [illegible] probatum plene [illegible] consuetudine in contrarium [illegible]

[illegible]

[illegible]

[illegible] cap. [illegible] de iureiurando, [illegible] 47.

[illegible]

[illegible]

[illegible]

[illegible] Jacobi Apostoli; [illegible]

[illegible]

[illegible] cap. [illegible] de iureiurando [illegible]

[illegible]

[illegible] cap. 42 [illegible]

[illegible] 86. =

n.º 8

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

De [illegible] probabilibus habens [illegible] testem, vel famam pro aliquo compellit [illegible] jurare [illegible] fama [illegible] illud [illegible] recusare [illegible] de juramento. [illegible] parte [illegible] recusare [illegible] [illegible] sit recusatio [illegible] [illegible] voluntarius [illegible] necessitatis. =
Juramentum extrajudiciale illud est quod in [illegible] [illegible] voluntarium [illegible] S. 1. 2. et 3. [illegible]
[illegible] de juramento, et est duplex, aliud assertorium est quod illud quo jurator de [illegible], vel [illegible], vel [illegible]
de [illegible] juramento. aliud est promissorium, [illegible] illud quod jurator [illegible] cap. de [illegible] de juramento. S. 22 [illegible]
[illegible] = et [illegible] [illegible] [illegible]
[illegible] 22 [illegible] de juramento, [illegible] = illud [illegible] fidelitatis, de quo
[illegible] N. 4. de [illegible] juramento [illegible] = aliud [illegible] de quo [illegible] 4. = aliud denique est
executorium de quo [illegible] juramenti [illegible] cap. [illegible] 4. = [illegible]
de [illegible] [illegible] de juramento, [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] 4. 9. [illegible] =

N. 9.

[illegible] varias [illegible] juxta [illegible] juranti formulas, [illegible]
[illegible] de [illegible] assertorio et [illegible] illam jurandi formam [illegible]
[illegible] Vivat Deus, [illegible] juramentum est, [illegible] blasphemia [illegible] aliquid blasphemiae [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] [illegible]
[illegible] Deus, testis est mihi Deus, [illegible] jurandi [illegible]
Navarrus [illegible] juramentum. = [illegible] dicat, [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] Navarrus [illegible] = [illegible] jurandi formam [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] = [illegible] denique [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] cap. 6. [illegible] 18 [illegible] tract. 5. cap. [illegible]
quos [illegible] [illegible] tract. 5. [illegible] 62. =

N. 10.

[illegible] [illegible] [illegible]
[illegible] [illegible] [illegible]
[illegible] 27. [illegible] [illegible]
[illegible] mortaliter peccat, [illegible] [illegible]
[illegible] [illegible] [illegible]
[illegible] 86. = [illegible] veniali [illegible] veniale
[illegible] [illegible] cap. 12 [illegible] = [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] cap. 6. = [illegible] [illegible]
[illegible] [illegible] [illegible]

[illegible]

De variis jurandi modis disseritur.

De aliquibus jurandi modis

[illegible] peccato mortali fieri [illegible]

iurata de [illegible] orando, aut de [illegible] fidei invalida judicarentur, quanto de [illegible] [illegible], valet [illegible]

circumstantiis, et tanta jurantis [illegible] ut valide sint ista jurata, quod [illegible] persaltoque do intelligendum, [illegible]

obligare nimis de [illegible] exercendo bono opere, et acceptando perfectioni statui; v. g. juravit [illegible] [illegible]

[illegible] se [illegible] acceptaturum episcopatus, validum [illegible] cum [illegible] sit status religionis longe perfectior, nihilominus

hic status honores, [illegible] et pericula, ob quae [illegible] prudens [illegible] acceptare, nisi caritas, aut obedientia ad acceptandum

[illegible] velent, ut docent [illegible] [illegible] [illegible] in cap. [illegible] de jurando, [illegible] cap. unico [illegible] [illegible]

n.º 11.

[illegible] valde [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible], [illegible] dubio [illegible] [illegible] [illegible], [illegible]

[illegible] debet [illegible] cap. [illegible] Paulus [illegible] et Thomas cap. 19. dicit [illegible]

quod do vobis ut sicut Ego facio, ita et vos faciatis, et [illegible] [illegible] ut [illegible] [illegible]

vobis, [illegible] et [illegible] cap. [illegible] dico vobis, et [illegible] quidem locutiones [illegible] [illegible] cap. [illegible]

juravit [illegible] peccavit, [illegible] nec potuit peccare, et [illegible] juravit, [illegible] [illegible] [illegible]

[illegible] Angeli, Prophetae, et Sancti Patres ut [illegible] sacrae paginae testimonia [illegible], [illegible]

[illegible] cap. Ego [illegible] de jurando, cap. [illegible] de elect. cap. ad absolvendum [illegible] de [illegible], cap. [illegible]

~~[illegible]~~ [illegible] 22 q. 4. cap. Ego [illegible] 42 de consecrat. dist. 2. [illegible]

[illegible] S. [illegible] et [illegible], et aliis, [illegible] ex [illegible] n.º 11. [illegible]

[illegible] [illegible] = [illegible] [illegible] [illegible], [illegible] si [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] peccato originali, [illegible]

[illegible] peccasset [illegible] [illegible], [illegible] [illegible] fuerunt [illegible] ut [illegible]

[illegible] D. Thomas in 4. dist. 14. q. 1. art. 1. [illegible] 3. p. q. 8. art. 2. [illegible] [illegible] [illegible] n.º 2

[illegible] q. 4. art. 2. [illegible] plures, quos refert, et sequitur [illegible] [illegible] 1. p. [illegible] 6. n.º 3. [illegible]

n.º 12.

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

S. [illegible] [illegible] Hieremias Propheta cap. 4. [illegible] juravit [illegible] in veritate et judicio, et iust. [illegible]

[illegible] cap. [illegible] 22 q. 2. [illegible] cap. [illegible] de jurando, [illegible]

[illegible], [illegible] ut [illegible] D. [illegible] [illegible] cap. [illegible], [illegible]

deficit substantia, [illegible] ex quo [illegible], [illegible] quodammodo

[illegible] [illegible] justitia, [illegible] Dei auctoritas ad [illegible], [illegible] [illegible]

[illegible] judicium, et [illegible] procedat, [illegible] [illegible], [illegible]

[illegible] D. Thomas 2. 2. q. 89. art. 3. Soto de just. [illegible] lib. 8. q. 1. art. 2. [illegible] lib. 2. cap. 42. [illegible]

de relig. t. 2. lib. 4. de jurando cap. 3. Azor 1. p. inst. moral. lib. 2. cap. 2. et [illegible] cap. [illegible] 1. p. [illegible] 6. n.º 4. [illegible]

[illegible] [illegible] [illegible] [illegible] lethali obligare [illegible]. Quaecumque [illegible]

[illegible] [illegible] [illegible] [illegible], [illegible]

[illegible] [illegible] [illegible], ut [illegible] [illegible]. Deinde [illegible] obligat [illegible]

[illegible] vel [illegible], [illegible] [illegible] [illegible] [illegible], [illegible]

[illegible], [illegible] [illegible] [illegible] [illegible] de [illegible]

et hoc sive promissio facta sit Deo sive homini, ideoque [illegible] [illegible]

[illegible] V. P. [illegible] [illegible] [illegible], [illegible], [illegible]

[illegible] [illegible] et [illegible] [illegible] [illegible] [illegible]

n.° 13

Plures [illegible] Canonico [illegible] [illegible] tenere. 1.° quod periurus [illegible] [illegible] sua, nec [illegible] quod [illegible] [illegible] de [illegible] [illegible] 2.° [illegible] [illegible] de R. I. lib. 6. quod [illegible] habebit [illegible] sibi utili, et [illegible] debet, [illegible] [illegible] ad mitti [illegible] [illegible] [illegible] [illegible] [illegible] 24 [illegible] lib. 3. de [illegible] lib. 7. c. 9. n.° 3. = 2.° [illegible] [illegible] [illegible] 10 [illegible] testimonio [illegible] 54 [illegible] 22. [illegible] [illegible] 7. [illegible] 5. [illegible] [illegible] [illegible] peccatum mortale, [illegible] declaratio [illegible] [illegible] [illegible] [illegible] [illegible] = 3.° [illegible] [illegible] ad benef.° obtinenda [illegible] [illegible] nulla [illegible], vel decisio, [illegible] [illegible] facto [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] lib. [illegible] [illegible] [illegible] declaravit [illegible] [illegible] ad benef.° obtinenda [illegible] [illegible] ex [illegible] declaratoria [illegible] [illegible] [illegible] [illegible] ad benef.° obtinenda [illegible] [illegible] [illegible] 40 [illegible] quod [illegible] [illegible] =

n.° 14

De [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 5. 11 [illegible] = [illegible] [illegible] [illegible] [illegible] 3. 1. 2d. [illegible] 50. [illegible] [illegible] 13 [illegible] 8. [illegible] = [illegible] [illegible] 3 [illegible] 12 [illegible] = [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 5. 10. n.° 9. [illegible] = [illegible] [illegible] = [illegible] [illegible] 51. [illegible] =

n.° 15

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 15. [illegible] l. 2 [illegible] 18. [illegible] =

[illegible]

[Marginal notes:] et [illegible] 56 [illegible] — et dicit — [illegible] — de [illegible]

dicere [illegible] facit [illegible] Barbarius [illegible] ff. [illegible] l. 3. §. ult. ff. [illegible]

liberti [illegible] potuit inducere, [illegible] plus [illegible] necessarium [illegible] et [illegible] quamvis [illegible]

[illegible] nec [illegible] l. Barbarius, quia [illegible] servus liberum [illegible] facit [illegible]

bat, proinde [illegible] si quidem [illegible] dubitaret, [illegible] et decreverat [illegible]

itaque [illegible] efficit ut [illegible] valeret [illegible]

[illegible] l. placuit [illegible] C. de [illegible] Baldus, et [illegible]

alij [illegible] l. de quibus ff. de legibus [illegible] 27. [illegible]

[illegible] l. 3. §. ult. ff. de [illegible] = [illegible] nec [illegible]

[illegible] debet [illegible]

[illegible] lib. 1. de iust. et iur. q. [illegible] art. 2. [illegible]

[illegible] D. Thomas 1. 2. q. 90. art. 2. et q. 96. art. 1. 2. et 3. =

n.° 76

De abrogatione legis per contrariam consuetudinem.

[illegible] sit rationabilis, legitimeque praescripta, [illegible] lege [illegible] Compi[illegible] abrogari [illegible]

[illegible] Corrigatur, aut [illegible] legem [illegible]

[illegible] lex [illegible] propterea [illegible] legis [illegible] quae [illegible]

[illegible] locorum, et diversorum hominum mores [illegible] leges [illegible]

[illegible] utile, [illegible] varietas temporum [illegible]

[illegible] l. unica [illegible]

[illegible] l. 7. tit. 1. p. 2. [illegible] D. Thomas 1. 2. q. 97. art. 1.

[illegible] q. 7. art. 1. [illegible] lib. 3. de lege [illegible] et alij quos refert et sequitur [illegible]

[illegible] debet [illegible]

[illegible] lib. 2. politicorum c. 6. et lib. 5. [illegible] ff. [illegible]

[illegible] plures quos refert et sequitur [illegible] lib. 2. [illegible]

[illegible] habet, [illegible]

[illegible] =

n.° 77

Nevo [illegible] [illegible]

[illegible] duplex assignanda est. [illegible] probatio [illegible]

[illegible] si [illegible]

de [illegible] Comites debet habere. [illegible] quolibet [illegible]

[illegible] dicatur ex auth. [illegible] relata [illegible] animadvertendum [illegible]

[illegible] Comes [illegible] nullus habet necessitas, nec [illegible]

[illegible] parallela [illegible] probabit [illegible]

[illegible] si post [illegible] nec [illegible]

[illegible] l. [illegible] ff. [illegible]

[illegible] pro [illegible] =

[illegible]

[illegible] consuetudine [illegible]

adverte

adversatur leg. humanis [illegible] [illegible] plena fides adhibenda est duobus, vel tribus testibus. [illegible] numerus ff. de testibus, vel instrumentis publicis leg. in exercendis C. de fide instrumentorum. [illegible] per d. Conventionem [illegible] foret semper et omnino iniqua, et irrationabilis, si [illegible] de aliqua causa [illegible] [illegible] nimis, et [illegible] ex cap. [illegible] de iurando, tradunt D. Thomas 2.a 2.ae q. 89. art. 2. Soto lib. 8. de Iust. et iure q. 2. art. 5. et alii quos refert, et sequitur Cobb. in cap. [illegible] [illegible] 1 p. §. 6. n. 4. [illegible] =

n.o 18.

Quia non obstant argumenta superius [illegible] adducta. Non [illegible] quo [illegible] [illegible] nunquam posse excusari a iuramento sibi delato, [illegible] [illegible] et exerceat ipse [illegible] [illegible] [illegible], et manifestis [illegible] [illegible] illud [illegible] quaeri [illegible] [illegible] ex [illegible] [illegible] velatis, quoniam [illegible] [illegible] procedere [illegible] [illegible] adhaeserat [illegible] probabilis [illegible] [illegible] [illegible] recusare neutiquam [illegible] Continet, quaerit [illegible] [illegible] capitur de merito litis decisorio, [illegible], sermo sit de iuramento necessario, et semper [illegible] probationibus in factis. [illegible] [illegible] decisoriis [illegible] illa [illegible] V. [illegible] recusetur, [illegible] [illegible] rationibus, veluti [illegible] actor plene probavit, ut docet [illegible] de iurando cap. 4. et [illegible] lib. 2. [illegible] cap. 13. animadvertentes [illegible] leg. ult. C. de fideicommissis [illegible] adducta procedere [illegible] [illegible], ut [illegible] [illegible] teneatur [illegible] [illegible], pro confesso habeatur. = Nec quidem [illegible] [illegible] [illegible] proponitur, [illegible] in quacunque parte litis [illegible] proponi [illegible] [illegible] cap. [illegible] de iuramento calumniae [illegible] [illegible] Veritatis, [illegible] [illegible] cap. [illegible] sermo de iuramento calumniae et malitiae, [illegible] quacunque [illegible] [illegible] [illegible] [illegible] ad repellendam [illegible] calumniae [illegible], ut inter alios docet Ioannes [illegible] de iuramento Confirmatorio 1 p. cap. 16. n. 65. [illegible] =

n.o 19.

Deinde obstat secunda difficultas [illegible] proposita, quae dicebamus [illegible] [illegible] [illegible] probationis [illegible], [illegible] [illegible], [illegible] quandoque fidem adhiberi, [illegible] [illegible] [illegible] plene probationis [illegible] [illegible] [illegible] factis [illegible] probatio [illegible] illa velatis, [illegible] probationis [illegible] [illegible] ex tali facto [illegible] [illegible] [illegible] [illegible] plene probata [illegible], probationis [illegible] decisoriis [illegible] [illegible] [illegible] [illegible] propositis. [illegible] [illegible] unico test. fides adhibeatur [illegible], [illegible] [illegible] [illegible] [illegible] Veluti [illegible] quis sit Clericus, sit Doctor, et [illegible] [illegible] in cap. [illegible], et in cap. [illegible] de Consecrat. dist. 4 [illegible] [illegible] partis [illegible] [illegible] [illegible] testimonio [illegible], sicut [illegible] [illegible] dicto adversae partis [illegible] [illegible] [illegible] [illegible] [illegible] persona [illegible], et deponit [illegible] illa, [illegible] [illegible] [illegible] [illegible] bellio [illegible] [illegible] Cornelius de [illegible] cap. ad audientiam 15. de praescriptionibus, [illegible] [illegible] Valens [illegible] cap. [illegible] lib. 3 de probationibus [illegible] et aliis [illegible] personis [illegible] [illegible] Mascardus de probationibus [illegible] 1. [illegible] q. 11. n. 13. et Cobb. lib. 2. Var. cap. 13. = Nec [illegible] [illegible] Covarruvias [illegible] [illegible] adducta, [illegible] [illegible] [illegible] ab actore, [illegible] [illegible] [illegible] plena probatio, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] =

n.o 20.

[illegible] obstat 3.a difficultas [illegible] superius proposita, quae [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible]

ita similiter etiam per consuetudinem efficaciore ex juribus in lo. velat, quoniam [illegible]
consuetudo dummodo rationabilis, et legitime praescripta sit [illegible] habere authoritatem, quam si aliter habet, et de la[illegible]
ubi non per acceptum [illegible] juribus, respondentibus tantum pro consuetudine authoritatem, ut possit necessario [illegible]
re qui testibus aut intrinsecus intentionis suae legitime probavit, quam semper repugnet ratio, cum [illegible]
inrandi requisita discretionis [illegible] ut s. diximus. = Sed nihilominus ad hunc difficile videtur [illegible]
[illegible], ut s. legem derogandi potestatem habeat, cum [illegible] expressum in [illegible] legem. C. quae sit longa
[illegible] consuetudinis 110. Sed omissis plurimorum opinionibus breviter dicimus [illegible]
[illegible] quidem in vim legem [illegible], quam lex [illegible] habet, ita ut consuetudo [illegible]
[illegible] posse procedant [illegible] sicut lex recipit [illegible] a lege, [illegible]
de legibus [illegible] ita et consuetudo [illegible]
lege [illegible] debeamus procedere, [illegible] de legibus, ita [illegible] consuetudo [illegible]
consequens [illegible] ut [illegible] nihil [illegible] inter legem et consuetudinem [illegible]
[illegible] lege [illegible] consuetudo [illegible], ut [illegible] lex anterior posteriori lege abolet [illegible]
[illegible] consuetudo [illegible] lege, [illegible] posterior, [illegible] lex posterior [illegible] consuetudinem [illegible]
[illegible] habet, [illegible] consuetudo, vel consuetudo legem [illegible]
[illegible] posterior [illegible], ut tradit [illegible]

Denique [illegible] posteriori [illegible]
consuetudo [illegible] scandalum generans [illegible] habere vel vincat legem ex [illegible]
[illegible] consuetudo [illegible] dissolvendi matrimonii legitime [illegible]
[illegible] de desponsatione impuberum, potest [illegible]
[illegible] matrimonii, [illegible] consuetudo habeat vim legis [illegible]
[illegible] de cognatione spirituali, ut docet Thomas Sanchez lib. 7. de matrimonio [illegible]
[illegible] = Nec [illegible] cap. [illegible] de cognatione spirituali [illegible]
docere videtur consuetudinem scandalum generantem posse legem vincere, [illegible]
[illegible], et legitima praescripta ut vincere posset legem [illegible]
illa, si consuetudo [illegible] scandalum generat, aliter se habere [illegible]
[illegible] et legitime praescripta ex [illegible] scandalum [illegible], aliter se habere [illegible]
est, lex observari debet, [illegible] violatae scandalum oriretur, [illegible] ex violatione consuetudinis [illegible]
scandalum generaretur, ut docent [illegible] Thomas Sanchez d. lib. 7. [illegible]
n. 11. et plures [illegible] lib. 7. [illegible] cap. 9. n. 5. =

Ex his omnibus [illegible]
[illegible] nulla [illegible] aliis [illegible] decreto [illegible]
[illegible] lib. 6. [illegible]
[illegible] respondeamus [illegible]
[illegible] plene [illegible] ad [illegible]
[illegible] plene prohibuit [illegible]

pd. iura generaliter tradita ... se conveniunt, et sic respective adstringere videtur procedere ... ley. ...
quens ... ff. de recept. arbitr. = 2°. quia post publicatas attestationes, et conclusionem in causa factam admitti pot.
partis confessio cap. cum Ioannes ... obstante de fide instrum. ... iuratio, et positionibus ... =
alij auctores docent ... quibus ... plene probatum nec ... iuramentum, nec ... positiones admittendas fore ...
... et rationes proposita superius ... decidendo, nec ... positiones ad faciliorem probationem ...
... ex d. ... ampliare probatam, supervacaneum esse ... responsione respondere. =
... posteriora ... iura ... generalia ...
... doctrinam ... [illegible]
... agitur, et ob ... facta plene probata, et ob defectum ... [illegible]
... = Nec ... facit ... post attestationes publicatas, et ...
... [illegible] ...
... [illegible] ...
plene ... superflue ... docet ... c. 11. n. 4. =
n. 81.
... [illegible] ...
... [illegible] ...
... [illegible] ...
... [illegible] ...
... [illegible] ...
... [illegible] ...
... [illegible] ...
... [illegible] ...
... [illegible] ...
... [illegible] ...
... [illegible] ...
... [illegible] ...
... [illegible] ...
... [illegible] ...
... [illegible] ...
... [illegible] ...
... [illegible] ...
... [illegible] ...
L. ... ff. de iureiurando ... ley. ... ff. de ...
C. de ... [illegible] ...
actor probat plene ... [illegible] ...
... [illegible] ...
... [illegible] ...
actor, ... [illegible] ...

... [illegible]

[illegible], q. nihil probante absolvendus erit reus, et si nec iuravit nec aliquid aliud fecerit reus [illegible]
[illegible] accusare [illegible] C. de edendo. = [illegible] ex [illegible] generaliter §. [illegible] C. de rer.
dubijs cap. ult. de iureiurando, at [illegible] de quo controvertitur [illegible] videtur [illegible] quod actor nihil probaverit,
reus [illegible] absolutus [illegible] L. qui accusare [illegible] = [illegible] quando [illegible] deferri [illegible]
actor nihil probavit, expresse [illegible] docere [illegible] cap. ult. §. [illegible] de iureiurando [illegible]
[illegible] ff. de iureiurando, [illegible] casu iuramentum debet admitti. = 4.° denique [illegible]
[illegible] maioris [illegible] prima probatio, debet [illegible] habere [illegible]
[illegible] §. ult. [illegible] ff. de [illegible] = [illegible]
[illegible] = 2.° [illegible] receptis [illegible]
[illegible] absolute [illegible] L. [illegible] §. [illegible] ff. de iureiurando [illegible]
[illegible] probatio, [illegible] actor [illegible] L. [illegible]
[illegible] iuravit [illegible] debet, [illegible]
[illegible] potuerit [illegible] recurrere, [illegible] probatio [illegible]
[illegible] voluit, [illegible] iurisiurandi [illegible] =

n.° 25

[illegible] posteriores [illegible]
[illegible] L. [illegible] §. [illegible] de iureiurando [illegible]
[illegible] probationibus [illegible] casu [illegible] probaverit [illegible]
[illegible] quod actor nihil probavit, [illegible] debet iuramentum [illegible]
[illegible] probante, [illegible] plena probatio, [illegible]
[illegible] deferatur. [illegible] probatio, [illegible] probat [illegible]
[illegible], [illegible] =
[illegible] hac [illegible]
procedunt [illegible] potest, [illegible] potest, [illegible]
[illegible] actor [illegible] probet [illegible] iureiurando [illegible]
[illegible] = [illegible] de [illegible] recept. [illegible]
[illegible] deferri, [illegible] probat, [illegible] plene [illegible] =
[illegible] §. ult. de [illegible] nihil de probat. [illegible]
[illegible] ad probandum [illegible] habet [illegible] delatio, [illegible]
[illegible] regulariter [illegible] generaliter [illegible]
de [illegible] necessario [illegible] =

n.° 26.

[illegible]
[illegible] plene [illegible] probaverit, [illegible]
sufficere [illegible] probatio [illegible]
[illegible] delatione [illegible] debeat [illegible] Bartolus [illegible] §. illo
de [illegible] probatur, [illegible] hoc casu [illegible]
[illegible] generalis traditio, [illegible] L. [illegible] §. [illegible] ff. [illegible]
[illegible] L. [illegible] ff. [illegible] Bartoli [illegible] ff. de iureiurando, [illegible]
[illegible] habet [illegible]

[illegible] [illegible]

[illegible]

Leg. unde de Noxalibus 27. §. lege actio ff. ad leg. Aquiliam lege 4. C. locati. Alter deponi, aut legi Venerabili alium loco veliti §. item mixtae inst. de actionibus. docetque casum simpli in dupli perrequisit sibi adquirere [illegible] lex concesserat, nam diversa haec st. edicti dupli actio in ignorancia, cum vero ita explicandae sint significent posse actor recusare jurare, ut ordinariis probationibus iterum dupli imprecetur, [illegible] hoc expeditum fiat, potius ubi ... ut deficiente actore possit recusare jurare, eo si pecuniam habet probatio. Vel si [illegible] quem ostendit [illegible] actor qui jam juravit, si velit dupli ex ipsis lucrari, [illegible] ex [illegible] praesentes, [illegible] quaeritur an debeat quis, et an juraverit, l. 5. §. deo ff. de jure jurando §. item [illegible] deferentem inst. de actionibus, et dupli actio exercere [illegible] suam legitimis [illegible] firmare, ut [illegible] ... Covarruv. lib. 4. var. c. 17. [illegible] W.=

n.o 27

§. respecto [illegible] ad [illegible] cap. [illegible] de jurando calumniae, [illegible] calumniae ab utraque parte praestari debere, ita ut [illegible] litigantes [illegible] contrariis [illegible] jurare, [illegible] actor [illegible] = Facile [illegible] difficultas [illegible] juramentum calumniae recusare [illegible] tale juramentum [illegible] recusat ad [illegible] quia de [illegible] debet [illegible] jurare [illegible] procedit [illegible] cap. [illegible] de jurando calumniae [illegible] 14 [illegible] jurans [illegible] habet [illegible] jurans debere compelli [illegible] juramentum [illegible] quam [illegible] = [illegible] calumniae [illegible] Covarruv. lib. 24. var. cap. [illegible] lib. [illegible] cap. 6. [illegible] n. 27. [illegible] de jurand. calumniae lib. 6. [illegible] jurando 34. 5. [illegible] 74. de jurando [illegible] 5. §. [illegible] 24 ff. [illegible] Regni [illegible] lib. 11. [illegible] §. =

n.o 28

§. [illegible] decretis [illegible] cap. [illegible] 10 de [illegible] regulares [illegible] majores [illegible] juramentum [illegible] sumi [illegible] tanquam a lege divina alienum [illegible] consuetudine [illegible] juramentum [illegible] actor [illegible] = Ut haec difficultas [illegible] dissolvamus [illegible] moralia, ut in juramento [illegible] cap. [illegible] 25. q. [illegible] divina lege Veteris [illegible] et lex Evangelica [illegible] translat. [illegible] cap. unico de purificat. post partum [illegible] Ceremonialibus ut circumcisio [illegible] praecepti [illegible] cap. 87. art. [illegible] Evangelii [illegible] licet [illegible] de [illegible] = Alii [illegible] ad [illegible] Evangelicas [illegible] mortifera [illegible] cap. [illegible] ut praecepta Veteris legis [illegible] Evangelicae [illegible] cap. [illegible] Capse [illegible]

debere in [illegible] in iudiciis, et in [illegible] duo, vel tres testes sufficiant, et hac [illegible] ut lex divina, et divina [illegible] humani [illegible] [illegible] [illegible] Golias decretum. = [illegible] sufficient [illegible] cere [illegible] decursus procedere [illegible] [illegible] [illegible] [illegible] [illegible] temporalium [illegible] ad [illegible] duo testes [illegible] parochi sufficient, quoniam [illegible] [illegible] testes [illegible] [illegible] [illegible] ut vident plenius [illegible] [illegible] [illegible] [illegible]

n.º 29 Sexto vero [illegible] Consuetudinis explicandus venit [illegible]

§. Omnis [illegible] de sepulturis Violato, ubi docet [illegible] municipalem Consuetudinem sepeliendi mortuos in Civitate [illegible] habere [illegible] generalem [illegible] rescripti [illegible] Vincere posse, [illegible] sua Consuetudo [illegible] [illegible] [illegible] [illegible] [illegible] observetur, ac [illegible] testes [illegible]

de quo [illegible] sufficienter iudicari debet ut [illegible] = [illegible] difficultas [illegible] nulli [illegible] §. Omnis [illegible] Consuetudinem [illegible] [illegible] Vincere, quoniam illa fuit Consuetudo [illegible] venerant, hoc [illegible] [illegible] [illegible] Consuetudo municipalis [illegible] per generalem legem [illegible] [illegible] [illegible] cap. [illegible] de [illegible] §. Omnis [illegible] [illegible] [illegible] [illegible] Consuetudo, [illegible] [illegible] Adriani [illegible] Imperatorum rescripta [illegible] [illegible] [illegible] hominibus Omnibus [illegible] ex lege [illegible] [illegible] mortuos in urbe sepeliri, ut [illegible] mortuos in urbe sepeliri, [illegible] Consuetudines [illegible] cap. [illegible] [illegible] [illegible] Imperatoris Adriani [illegible] §. Omnis [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] respondit illud generale rescriptum [illegible] municipales Vincere [illegible] [illegible] [illegible] quoniam illo tempore [illegible] erat [illegible] [illegible] sepeliri, [illegible] apud Veteres mortuos in Urbe sepeliri [illegible], atque [illegible] [illegible] nulla [illegible] illo tempore Valere [illegible] [illegible] temporis [illegible] [illegible] [illegible] [illegible] [illegible] §. Var. cap. [illegible] =

n.º ult. Pro coronide [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] compelli [illegible] quod [illegible] [illegible] nec compelli [illegible] [illegible] ut [illegible] [illegible] et rei [illegible], quoniam diversa procedit ratio [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] post plenam probationem [illegible] Consuetudinis [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

quidam [illegible] [illegible]

In [illegible] Vestram Utilitatem [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] ad [illegible] in cap.° 3.° [illegible] [illegible] Probationibus [illegible]:

[illegible] decreta [illegible] in cap. 3.° [illegible] [illegible] exponere in Valencia [illegible] [illegible] de testibus [illegible] [illegible]

n.° 2. [illegible]

n.° 3. [illegible] de fide instrumentorum [illegible]

n.° 4. [illegible]

Determinat, cap. ad [illegible] 12. [illegible] de probationibus cap. testes [illegible] 9. [illegible] Canonicorum depositio [illegible] incerta, et [illegible]
[illegible], [illegible] in Commissarios, nec horum nomina exprimerent, [illegible] Capitulum [illegible]
qui [illegible] facit [illegible] de [illegible], [illegible] l. 2. C. de [illegible], [illegible] huiusmodi testes
fidem [illegible] Canonicorum. = [illegible] debitis [illegible] [illegible]
n.º 5.

de Capitulo [illegible] collegio [illegible]

Debet habere [illegible] [illegible] pro 1.º [illegible] Capitulum [illegible]
Collegium, Ordinem et [illegible] cap. dilecta[4] de excessibus praelatorum, cap. [illegible] de [illegible] l. 1. [illegible]
[illegible] l. 1. ff. de Collegijs, et Corpor. [illegible] leg. 1. [illegible] ff. de decret. ab ordine [illegible]
appellatur populus [illegible] Academiae, Collegij, Canonicorum, monasterij Capitulum, ut [illegible] n.º 15. [illegible]
cap. 32 n.º 6. et est Corpus ex pluribus distinctibus Corporibus, l. [illegible] 30 ff. de [illegible] l. [illegible]
[illegible] l. [illegible] ff. de leg. [illegible] tribus [illegible] l. Neratius [illegible] ff. [illegible] Cap. [illegible]
[illegible] familij appellat [illegible], nec duo familij [illegible] Universitas [illegible]
[illegible] de Universitate [illegible] posset, [illegible] Universitas [illegible]
personarum [illegible] l. proponebatur 76. ff. de [illegible] plura [illegible]
cap. 22 n.º 17. et [illegible] Universitas n.º 275. [illegible]
[illegible] Collegij n.º 454. n.º 2. [illegible] =
n.º 6.

[illegible] Universitas [illegible] Collegio [illegible]
[illegible] Voluntas [illegible] l. [illegible] ff. de Collegijs [illegible]

q.º Collegia [illegible]

[illegible] Collegia, [illegible] l. 2. [illegible] 7. [illegible] n.º 4. [illegible] de recopilatione, [illegible]
[illegible] cap. dilecta de excessibus praelatorum, et in cap. 1.º de religiosis domibus [illegible]
[illegible] Congregationibus [illegible]
[illegible] Collegia [illegible] solent, [illegible] Collegij [illegible]
[illegible] Societatis [illegible] cap. [illegible]
Collegia [illegible] Collegiorum [illegible] Principibus [illegible], vel [illegible]
[illegible], [illegible] cap. per venerabilem[13] qui filij sint legitimi, [illegible] Corporibus [illegible]
[illegible] l. [illegible] ff. ad [illegible] Universitatis nomine l. 1. ff. de Collegijs illicitis l. 3. tit. 14. lib. 8. recopilationis. [illegible]
[illegible] Confraternitates, Collegij [illegible] pro sepeliendis defunctis, pro [illegible]
[illegible] personis [illegible], vel [illegible] sacerdotes [illegible]
[illegible] Ordinarijs licita [illegible]
ex huiusmodi licitis [illegible]
[illegible] l. 3. tit. 14. lib. 8. recopilationis n.º 7. [illegible] =
n.º 7.

de sigillo [illegible] capitulum =

[illegible] pro [illegible] sigillis [illegible]
[illegible] vel [illegible]
sigillum [illegible] ut [illegible] cap. [illegible] de fide instrumentorum. l. [illegible] ff. [illegible]
[illegible] l. 1. n.º 1. [illegible] [illegible] Collegij [illegible]
[illegible] sigillum [illegible] l. ult. C. de [illegible]
[illegible] n.º 61. n.º 4. = [illegible] sigilli [illegible] sigillum [illegible] authenticum [illegible]
[illegible] authenticum [illegible] authoritate [illegible]
publicam [illegible] authoritate [illegible] sigillum [illegible]
[illegible], magistratus, Universitatis, Capituli, vel [illegible] l. 1. n.º 10, [illegible]

[illegible]

[illegible] in cap. [illegible] de fide instrum. [illegible] sigilli [illegible] personas [illegible] sigilli [illegible]
tradunt Coll. tract. 97 cap. 19. n.o 1. [illegible] cap. 22 n. 9 [illegible] de arbitrariis [illegible] cap. 113. n. [illegible] de [illegible]
[illegible] Mascardus, et Gonçalez [illegible] sigilli [illegible] fidem. = sigilli [illegible] particulares [illegible] publicas, [illegible]
[illegible] cap. [illegible] de fide instrumentorum [illegible] Coll. Mascard. [illegible]
est [illegible] l. Tribunus [illegible] de [illegible] militis, [illegible]
[illegible] privata, [illegible] scriptura sigilla-
[illegible] sigillo proprio, [illegible] Conrado [illegible]
[illegible] l. 44. [illegible] sigilli [illegible]

n.o 8

Denique animadvertimus [illegible] sigilli [illegible]
[illegible] sigilli [illegible] Covarruvias [illegible]
[illegible] sigilli [illegible] aut adulterinum, aut fraudulentum, aut furtivum. [illegible] adulterinum [illegible]
sigilli alterius [illegible] de appellationibus = fraudulentum [illegible]
[illegible] sigillo proprio [illegible]
[illegible] sigilli [illegible]
[illegible] l. 6. C. de fide instrum. = furtivum sigilli [illegible]
[illegible] sigilli [illegible]
[illegible]
[illegible] sigilli [illegible]
[illegible] sigilli [illegible]
[illegible] sigillo [illegible]
[illegible] sigillo [illegible]
[illegible] sigilli [illegible]
[illegible]
[illegible]
[illegible]
[illegible]

n.o 9

[illegible] proponendum [illegible]
[illegible] capituli [illegible] testibus [illegible]
[illegible] testimonio dicendo [illegible]
[illegible]
[illegible] testimonium dicendum [illegible]
[illegible]
[illegible]
[illegible] appellare, cap. [illegible] 30. l. 1 ff. de appellationibus
[illegible] de appellationibus [illegible]
[illegible] Bellum 29

[illegible]

de [illegible] [illegible] [illegible]

§. pulam reg. 6. l. 9. ff. qd cuiusque Universitatis. = Facit et qd leg[itima] testis ... Universitatis de ... eadem ... et sic ... Causis ... quia debet Universitas singulis ... l. 2. ff. qd cuiusque Universitatis ... de ...
... 150 §. ... 12 ... l. 2. C. ...
... nec singulorum ... videtur, et sic singuli reputantur ... testes ...
... Cod. ... cap. 18. n. 4. Menchaca ... controversiarum frequentium cap. 39. n. 22. ...
... 22 ... 11. ... 4. ... Mascardus ... =

n.° 10

Nec huic ... repugnat illud qd ... dicere solet ... qd ...
... videri ... leg. illud 46. ff. de ... 26. ff. de Servitutibus Urbanorum ...
... ex lege ... ff. ... l. falso ...
... quemlibet ... Universitatis ... quemlibet ...
... et singulis ...
... Collegii, Universitatis ... singuli de Collegio, vel Universitate ...
... vel ... Universitatis ... vel ...
... nec singuli ... Universitati ..., nec singuli ... vel ...
... qd resultat ex Universitate ... reputatur, ... testimonio ... Universitatis
singulos ... Universitati ... Communis ...
... 4. ... cap. ... 6. cap. ... de testibus ...
... Trebellianus Menchaca Controversiarum frequentium cap. 39. n. 12 ...
... de testibus ... 60 n. 475 ... =

n.° 11

Hinc succedit ...
... Capitulum ... Capitulum ...
... cap. 2. de fide instrumentorum ... cap. ...
... Celebrationis ... ex leg. ... 18. C. de probationibus, cap. ...
... testes reprobantur ... 33. de testibus ...
... attendi debet l. 2. C. de ...
... qd ... testes ...
... de fide instrumentorum ...
... Attestatur, ... qd debet fides ... instrumento probato ...
... 48 ... cap. ...
... l. ... C. de fide instrumentorum. ...
... cap. ... 1789. n. ...
... 44. ...
... cap. 11. n. 10 =

n.° 12

17.

Nec contrarium facit qd ... cap. ...
... 10. ff. ...
... testes ... vel ...

Vel ... [illegible] facti, ... in ... testibus ... ut docet ... cap. ad audientiam de ... rebus ... procedat in ... quem ... testibus ... debet, ... de falso ... vellet ... quia ... testibus ... nere, licet ... ad ... docent Bald. in leg. Unica C. ... Valere ... § ... Speculator ... portellus, ... plures, quos refert ... Mascard. ... de fide instrumentorum ... n.° 3. ... Cer. ... libro ... registro ... Cancellarii ... in ... publica ... Tab. 30. ... tract. ... de probationibus ... fol. 404 ... [illegible] =

n.° 13

Unde ... [illegible] ... Non ... familiares ... testes ... Capitula ... testimonium ferre ... ad ... habentes ... repelli ... testes ... de ... testibus ... probat ... Mascard. ... concl. 573 et ... 1357 ... de ... aliquam ... vel ... exhibeat ... qui ... testes ... Canonicis ... testes ... publice ... docent Coll. Mascard. et ... licet ... intelligendum ... et ... [illegible] ... de ... =

n.° 14

Deinde ... [illegible] ... probatur plenam fidem instrumentis exhibendis ... testes ... dicto ... testes ... probari ... testibus ... ad probationem ... Vel ... testes ... testimonia ... de ... plurimum ... et ... docet ... de ... instrumentis ... n.° 9. et 4 ... [illegible] =

n.° 15

... [illegible] ...

Deinde ... testes ... circuli ... [illegible]

[illegible] Canonicus pro codem testificantibus, cum quamvis testes [illegible] Canonicus, nec non Capitulum expiderit, tacite [illegible] fecere, [illegible] Conventus [illegible], et [illegible] fuit, [illegible] [illegible] fuerat, ut [illegible] n.° 4. [illegible] n.° 39 et [illegible] n.° 3. = Nec obstat quod singulares testes erant, et [illegible] videbantur [illegible] probationem inducere, quoniam [illegible] adhuc [illegible] [illegible] veritatem [illegible], [illegible] plenam faciunt ut docet Menochius de arbitrariis Casu 105. [illegible] [illegible] poterit [illegible] testes [illegible] contestaverant, [illegible] dicunt [illegible] Capitulum [illegible] fuisse, et tamen [illegible] Capitulari [illegible] [illegible] [illegible] Canonicorum depositionibus [illegible] [illegible] n.° 5. [illegible] et alios [illegible] Lib. 2 [illegible] cap. 13. n.° 11. [illegible] cap. 13. n.° 22, et alios [illegible] =

n.° 16

Ex aliis omnibus et [illegible] decidendam [illegible] decreto alias difficultatem proponere, [illegible] ad [illegible] [illegible] [illegible] aperte deponunt [illegible] 237 [illegible] monachos monasterij [illegible] legitimos testes [illegible] aliis [illegible] deficientibus, nec [illegible], [illegible] sic [illegible] testes Canonicos [illegible] ad [illegible] Capituli, aliis deficientibus, et absolute [illegible] = [illegible] difficultatem dissolvens [illegible] plures adducit [illegible] [illegible] n.° 49 docet [illegible] [illegible] religiosorum [illegible] Monachos [illegible] testes [illegible] monasterio [illegible] aliis deficientibus testificari, [illegible] = [illegible] [illegible] religiosos [illegible] sui monasterij [illegible] legitimos testes = [illegible] monachos religiosos [illegible] [illegible] deficientibus aliis testibus [illegible] legitimos [illegible] aliis [illegible] = [illegible] quoniam [illegible] monachum [illegible] [illegible] [illegible] Divi Thomas 2.a 2.æ q.ª 89 art. 2. ac proinde [illegible] [illegible] religiosi erat [illegible] = [illegible] et alios [illegible] [illegible] authenticam [illegible] religiosi necessitatibus [illegible] [illegible] monachos [illegible] monasterij [illegible] aliis testibus [illegible] recusare [illegible], [illegible] monasterij [illegible], [illegible] monachi [illegible] [illegible] ~~[illegible]~~ [illegible] quod habent monachi [illegible] monasterij [illegible] [illegible] =

n.° 17

Nec [illegible] quod [illegible] [illegible] cap. [illegible] [illegible] religiosorum [illegible] [illegible] = [illegible] [illegible] cap. [illegible] 7 lib. 6. cap. religiosorum [illegible] [illegible] [illegible] monasterij [illegible] deficientibus aliis testibus, ac [illegible] Ordinarium [illegible] cap. [illegible] 9. 13. [illegible] deficientibus aliis testibus [illegible] monasterij [illegible] religiosos [illegible],

[illegible]

et in ead. [illegible] Vidimus legitimos et idoneos testes, sive alij [illegible], [illegible] generali [illegible] decisione

[illegible] capitulis [illegible] cap. [illegible] de testibus, et attestationibus, ut docet [illegible]

[illegible] Prudentij [illegible] cap. 18 n.º 9. Menoquius, et Mascar[dus] [illegible]

[illegible] l. 18. [illegible] =

n.º 48.

[illegible] cap. Venientes [illegible] de testibus, et attestationibus, [illegible]

[illegible] Canonici [illegible] Capituli [illegible] legitimos et idoneos testes [illegible]

[illegible] Statuitur. = [illegible]

[illegible] Canonici [illegible] Capituli [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

4 Menochius [illegible] cap. 33. n.º 22. [illegible] Curia [illegible] cap. 29. n.º 9. [illegible]

[illegible] l. 18. [illegible]

[illegible] Felin. n.º 6.

[illegible] Farinacius [illegible]

[illegible]

[illegible]

[illegible] Universitate [illegible]

legitimi testes [illegible] de testibus, et attestationibus [illegible]

[illegible]

Secreto [illegible]

[illegible]

[illegible]

[illegible] cap. Venientes [illegible]

[illegible] docet Farinacius [illegible] n.º 50. =

[illegible]

n.º 49.

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] excep[illegible] per [illegible] [illegible], cum [illegible] concurrant [illegible]
[illegible] nec [illegible], nec [illegible], [illegible] [illegible], ad illud [illegible]
[illegible] [illegible] declarare [illegible] [illegible] [illegible] l. 1 [illegible]
[illegible] et [illegible] [illegible] [illegible], Velut [illegible] [illegible] [illegible]
[illegible] ad [illegible] Vel [illegible], Vel [illegible] [illegible], [illegible] primum
ult. [illegible] de [illegible] l. [illegible] de [illegible] = Vel [illegible] [illegible]
[illegible] [illegible], ut [illegible] exteriori [illegible], testibus [illegible] exteriori [illegible]
Velut [illegible] [illegible] [illegible] Vel [illegible]
[illegible] [illegible] [illegible] [illegible]
[illegible] exteriori [illegible] testes [illegible] exteriori [illegible]
[illegible] =

[illegible] Ultimo [illegible] [illegible] ult. [illegible]

[illegible] [illegible] [illegible] [illegible] testes, quod [illegible]
[illegible] [illegible] testes [illegible]
[illegible] [illegible] [illegible] [illegible] =
[illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] testes [illegible]
[illegible] [illegible] [illegible] lex [illegible]
[illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] Vel [illegible] Velut [illegible] quamvis [illegible]
[illegible] [illegible] [illegible] testes
Velut [illegible] [illegible] [illegible] l. 12 [illegible]
[illegible] [illegible] testes [illegible]
[illegible] [illegible] = Nec [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible]
[illegible] testes [illegible] [illegible]
[illegible] testes [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible]
[illegible] Vel [illegible] testes [illegible] [illegible]
[illegible] [illegible] testes [illegible] [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] [illegible]
: [illegible] [illegible] [illegible]
: [illegible] [illegible] [illegible] :
[illegible] :

Schedas. 25.

Ad cap. ex literis. 3. de fide instrumentor.

Ad D. Tancredum [illegible] ex litteris de fide instr. lib. 2 tit. 22.

Hoc caput desumptum ex quadam Alexandri 3. decretali [illegible] maximi [illegible] ingenio [illegible] tumultus qui [illegible] anno domini 1159 testante Baronio eodem anno, in cuius [illegible] agitata [illegible] Magistri Antonii et Roderici [illegible] capella [illegible] parrochialem [illegible] quam [illegible] habebat. [illegible] Apostolico mandato quidam judices [illegible] terminandam [illegible] Rodericus [illegible] copiam fieri litterarum [illegible] petebat, quae [illegible] falsitatis [illegible] narratae facti, ubi [illegible] parrochialem, erant abrasae. Dubitarunt judices, [illegible] litterae falsae dici debeant. Respondit [illegible] ex litteris Apostolicis [illegible] abrasis [illegible] falsas iudicari [illegible] posse, nec eas haberi suspectas [illegible] privilegia [illegible] nominibus [illegible] abraditur [illegible] narratae facti [illegible]

Ex [illegible] deduco illustrandas [illegible]. Apostolicas litteras [illegible] rasuram in narratione facti emergentis iudicari [illegible] nec suspectas haberi [illegible] plenam in judiciis faciunt. [illegible] c. [illegible] de fide instrum. [illegible] c. licet §. quinta de crimine falsi, c. [illegible] de religiosis domibus, c. [illegible] de privilegiis, c. ad audientiam de rescriptis, [illegible] de [illegible] tabulas [illegible] de [illegible] de testibus [illegible] de edictis D. Adriani [illegible] Gregorius [illegible] illustrant [illegible] de crimine falsi [illegible] Rebuffus [illegible] Mascardus de probat. [illegible] 1260. Menochius [illegible] de fide instrument. [illegible] Farinacius in praxi criminali [illegible] de falsitate et simulatione q. 151. n. 46. [illegible] Menochius [illegible] remedio 4. de adipisc. [illegible] 709. Alex. [illegible] Flaminius [illegible] de resignat. benefic. [illegible] q. 7. n. 46. [illegible] falso n. 32. Dat. [illegible] de edicto D. Adr. tollendo [illegible] et alii plures quos refert [illegible] Barbosa in collect. ad [illegible]. =

[illegible] Sed [illegible] plene [illegible] explicemus dubium [illegible] quid dicendum videbatur Apostolicum rescriptum in quo abrasio fuerit [illegible] Apostolicae litterae debent [illegible] in Cancellaria [illegible] nec abolitio [illegible] de fide instrum. [illegible] D. Adriani [illegible] Romana [illegible] rescripta [illegible] cancellaria [illegible] rescripta [illegible] de rescriptis [illegible] perfecta [illegible] de crimine falsi [illegible] Apostolica [illegible] et adulterationes [illegible] ad audientiam [illegible] de rescriptis [illegible] rescripti [illegible] Apostolici rescripti [illegible] rasura [illegible] rescriptum [illegible] privilegia [illegible] cancellaria abolita [illegible] quaecunque [illegible] fidei [illegible] de edicto Divi Adriani [illegible] de fide instrument. [illegible] rasura [illegible] substantiali rescripti [illegible] falsi narratione [illegible] rescripti [illegible] litterae [illegible] facti abrasa [illegible] principale [illegible] substantiali [illegible] litterae [illegible] narratione facti abraditur [illegible] suspectae [illegible] abrasio [illegible] Nicol. [illegible] Flaminius [illegible] de resignat. [illegible] 9. 7. n. 46. [illegible] rescripta [illegible] Cancellaria [illegible] rescriptum [illegible] vitium [illegible] de rescriptis [illegible] ex litteris [illegible] de rescriptis [illegible] rescripta [illegible] facti rasura [illegible] rescriptum [illegible] privilegii [illegible] falsa iudicari [illegible] de rescriptis [illegible] facti narratione [illegible] de [illegible] Denique [illegible] facti narratione [illegible] ad audientiam 11. de rescriptis [illegible] rescripta [illegible] falsa [illegible] rescripta Apostolica [illegible] litteras [illegible] Romana Curia [illegible] Rebuffus in praxi [illegible] Bullae [illegible] Alex. [illegible] [illegible] Albar. [illegible] originalibus [illegible] rasura [illegible] narratio facti [illegible] rescripti [illegible] falsitatis [illegible] originalia rescripti et privilegia [illegible] Sed hic solutio

Sed huic resolutioni non restringit generalitatem textus Decretalis, quae cum generaliter loquatur, debet etiam generaliter accipi, c. ad audientiam ... Generaliter ff. de leg. praest. l. in fraudem ff. de milit. test. l. de pretio ff. de publiciana, et littera textus nullo modo ...
cum ... ostendit, quod ... de privilegiis ... ad rescripta ... argumentum deducat, ... de confirmatione utili vel inutili, et veritas ...
... pateret nullus ... decisionem hanc ... dubitandi ratio ... fugiendi ... in intellectu ... ad casum dubitabilis ...
ff. ad municipalem, ... ab ... ff. de carboniano edicto, ... nimis laborat ... quod solent a sedibus ...
... simul originalia ... emanare. = Quibus rationibus ... Panormitanus ... n. 4. ...
... tradidit, ... putavit de modica mutatione et abrasione litterae, vel syllabae, quae ... in loco ...
suspecto ... alterare ... suspectas litteras reddit, ... totius nominis abrasio ... quod ...
nocet, argumento ... de dolo ... = Sed ... Gofredus ... ex ... privilegium ...
... abrasio ... ostendit abrasionem in nominibus ... suspectum rescriptum reddere, ... licet ... abrasio ...
falsum ... rescriptum. = Quare his et aliis ... omissis, quas ... refert ... Panormitanus ... n. 4. ...
... quod rasura facta in loco suspecto, ... ita magna quod fraudem ...
... in nominibus ... ad maiorem cautelam ... facta specialis mentio in rescripto ...
... generaliter ... rescripto vel privilegio ... quae ... in tali casu, quae propriis nominibus ...
... exprimendas, certe abrasio in nominibus ... potest vitiare rescriptum, ... generalibus ... clarius ...
... speciali facta fuisset, ... rescriptum vitiatur ... quemadmodum in abrasione ... facta ...
suspectum reddit rescriptum, ... si nulla esset abrasio, ... litterae ... radicitus ...
... procedit, ... rei veritas, ... debeat ... litteris ... facile ...
... falsitatis, c. accedens de crimine falsi. Ceterum ... rasura ... suspecta ...
fuisset, quae ... Felinus ... n. 4. ... colligitur ex integra Decretali ... Gregorii ...
Lateranensis ... quod rasura ... in loco suspecto ...
... n. 4. ... quod quando rasura in loco ... suspecto in dubio praesumitur facta ab adversario ... vitiat rescriptum ...
... praesumitur facta a parte rescriptum producente, nisi ... a scriptore, seu tabellione fuit ... facta ...
... Abbas ... n. 4. de crimine falsi, ... ad tollendas huiusmodi dubietates ...
introduxerit, ut ... subscriptio ... signum tabellionis ... lineatura, ... cancellaturae ...
... ita probat ... singularis ... ff. de ... refert ...
... n. 45. ... tenetur ... Lex 13. ... 25. ...
... tabellionis ... si ... Merlin ... rescripta ... suspecta ...
... abrasionem dolo ... illud producentis, ... rescripti ... derogare ... =

Ex quibus sic resolutis detegitur decisio ...
... rescripti apostolici ... rasura in loco ... suspecto vitiosum esse ... quod ... abrasio ... rescripti ...
... falsi, ... rasura ... in loco suspecto, ut ... ubi ...
... generalibus ... abrasio ... dolo falsitas ... omittere ...
... litteris apostolicis ... abrasio ... falsis ... suspecte habendis ...
... in nominibus ... abradantur, ut ... Curia ...
... rasura ... in loco suspecto invenitur, ut in nomine ... Fre ... Judicis ...
... certe regula ... circumstantiis ... arbitralis ...
... litterae vitiat ... rasura ... nocet ...
... Abbas ... si in rescripto ... capitula separata ... certa parte rasura ...
rasura in loco suspecto ostendatur, non vitiatur totum rescriptum, sed solum illa pars ... abrasa ...
rescripti in 6. ... subreptio ... vitiat rescriptum ... valeat ...
... de edicto divi Adriani tollendo, Baldus, ... antiquiores, Gomez ... l. 45. n. 45. Innocentius ...
... Panormitanus ... n. 3 ... in pace ...
... corrigere, ... rescriptum, ... in Curia a Canonicis ... in quemcumque alium ab officialibus ...
... litterarum ... dimidia abrasionem ...
... ignorantia ... de rescriptis ... per ... in Curia ...
... refert Host. n. 20. ... impetrans sine aliqua poena totas litteras ... facultatem habet ... de crimine falsi ... apostolicas de regularibus ...
... vulgatis ... Abbas n. 3. =

Ex qua decidendi ratione ... Honorius III
... quam erat spoliata, adversarius ... Curiae ... Apostolicae ...
... hanc litteram defectus Apostolici rescripti ... videri debeat ... defecerat ...
... procedere posse ... decisionis ... suspectum ...
rescriptum ... vitiet, ... dolo partis illud producentis ... rescripti ... rasura ... in loco ...
... a scriptoribus ... ab officialibus ... defectus ...
... humani ... litterarum apostolicarum ...
rescripti, ... vires recepit ... superioris rescribentis ... reddit ...
... nec ... de rescriptis ... ff. de ... Decianus ...
... rescripto in religione ... intellectu Papae rescribentis ... huius ...
... debet, nec ... iudicari ... de modicis curare debent iudices, ... litteris ...
... et in defectu syllabae, dictionis, ... in iure ... Panormitanus ... n. 2. ...
... ampliationem ... Doctrinam tradunt ... Panormitanum ... ibi ...
... =

Et eadem [illegible] in Decisione [illegible]

3.º Decretis relatis in [illegible] ex scientia de crimine falsi. Ubi quidam adversarius suus super quadam littera a Sede Apostolica [illegible] impetravit, adveniens ille in judicio, veritatis litterarum copiam [illegible] fieri postulavit, et eas falsitatis redarguere [illegible] adstringens se sub periculo [illegible] ad probandum falsitatem, judex litteras illas misit ad [illegible] veritas huius falsitatis sciret, quas cum [illegible] diligenter inspexit, nullum in eis falsitatis signum, et suspicionem invenit, nisi rasuras paucarum litterarum, quae sapientis animum in dubitationem adducere [illegible] debuerunt. [illegible] mandat, quatenus [illegible] obligasset se sub periculo [illegible], quod litteras illas falsas esse probaret, [illegible] silentium, cum quilibet habeat [illegible] juri suo renunciandi. [illegible] Decisio aperte [illegible] litteras Apostolicas [illegible] paucarum litterarum rasuram habere, nec falsas iudicari. [illegible] ex superioribus [illegible] falsitatis redargui [illegible] possint per rasuram in loco suspecto, quae facta per officiales [illegible] impetrans, seu utentem, cum dolo [illegible] rasura facta videtur, [illegible] in loco suspecto rescripti [illegible] propterea fides adhibenda [illegible] est [illegible] merito paucarum litterarum rasura in loco suspecto, ex qua [illegible] aequivocationem nominis, seu dictionis [illegible] sequitur, [illegible] falsitatis, quia illa rasura [illegible] seu suspicionem falsitatis, quae habet vertere sapientis animum in dubitationem, [illegible] immutat [illegible] de simonia, et judices [illegible] huiusmodi [illegible] Apostolicis litteris [illegible] dicti cap. ex scientia [illegible] docent post Glossam [illegible] verbo rasuras Butrius [illegible] Hostiensis [illegible] Panormitanus [illegible] doctores [illegible]

[illegible] [illegible] tradidimus [illegible]

[illegible] difficultatem [illegible] licet ad regimen [illegible] quinta de crimine falsi, [illegible] falsitatis modis litterarum Apostolicarum, quos [illegible] experimento, ut veritatem et falsitatem [illegible] huiusmodi litteras [illegible] et cognosci valeant, [illegible] quinta cum litteris [illegible] [illegible] aliquid per rasuram tenuem immutatur, [illegible] modica litterarum rasura suspectum reddat Apostolicum rescriptum [illegible] de crimine falsi, [illegible] difficultatem [illegible] rasuras [illegible] solvit [illegible] verbo tenuem [illegible] licet [illegible] qui affirmat [illegible] adhiberi [illegible] casu quo paucarum litterarum rasura facta [illegible] Papae, qui litteras [illegible] intelligitur [illegible] suspecto loco [illegible] casu quo [illegible] qui litteras impetravit [illegible] aliquid [illegible] per rasuram [illegible] tenuem immutavit, nam [illegible] suspectis litteris [illegible] indicantur [illegible] ex scientia [illegible] de crimine falsi, in altero vero casu falsitatis redargui litteras [illegible]

[illegible] quinta traditur, in quo [illegible] Papae, in quibus [illegible] rasura aliquid immutatur [illegible] falsum [illegible] per rasuram [illegible] qui litteras obtinuit [illegible] rescripti [illegible] fides adhibenda est [illegible] rescriptum [illegible] C. de probationibus, docet Hostiensis [illegible] in [illegible] [illegible] crimine falsitatis [illegible] quantumcumque rasura modica sit, ut docet [illegible] verbo tenuem, [illegible] Felinus [illegible] Butrius [illegible] licet [illegible] Panormitanus [illegible] de crimine falsi [illegible] et [illegible] antiquiores [illegible] [illegible] in litteris, quae aperte a Curia emanarunt, [illegible] rasura [illegible] quocumque in loco [illegible] falsitatis suspicio [illegible] impetrantem [illegible] C. de [illegible] C. de fide instrumentorum, docet Glossa [illegible] licet [illegible] verbo tenuem.

Praeterea expendo [illegible] privilegiis, ubi [illegible] adversus monasterium [illegible] super [illegible] monasterii exemptio [illegible] [illegible] exemptionis privilegium, [illegible] erat, et Apostolicae Sedi immediate subjiciebatur, quod privilegium [illegible] in aliquot lineis [illegible] falsum [illegible] [illegible] libertates ab [illegible] illud monasterio [illegible] decrevit, ut [illegible] ex [illegible] paginae in aliquot lineis habuisse rasuras, et [illegible] decernimus, [illegible] privilegium [illegible] modicam litterarum rasuram suspectum haberi, et falsum iudicari, [illegible] tradidimus Apostolicas litteras [illegible] huiusmodi modicam abrasionem falsitatis redargui [illegible] Cuius difficultatis solutio [illegible] [illegible] rasuram [illegible] in loco suspecto [illegible] aequivocationem nominis, seu dictionis inducat, [illegible] animum in dubitationem vertat, probatis [illegible] falsitatis, [illegible] privilegii derogat [illegible] monasterii [illegible] libertatis per privilegium illud [illegible] in loco suspecto [illegible] suspectum reddit [illegible] [illegible] verbo rasuras, [illegible] de crimine falsi Panormitanus [illegible] Butrius, et Hostiensis [illegible] Mascardus de probationibus [illegible] 260.

Ex quibus [illegible] est [illegible]

[illegible] [illegible] [illegible] asserens [illegible] spiritualibus, [illegible] temporalibus pertinere, [illegible] [illegible] temporalibus quoque [illegible] ostendere [illegible] instrumentum, [illegible] Tabularius [illegible] [illegible] monasterii [illegible] nullam fidem [illegible] lineam [illegible] rasura in loco suspecto facta [illegible] temporis [illegible] [illegible] spiritualibus [illegible] [illegible] exceptionibus [illegible] authentica scriptura [illegible]

Id quod instrum. [illegible] ex qd. ejus lex intendebat quoad temporalia vindicare ad faciendum [illegible] hoc [illegible] invalidum [illegible]
[illegible] [illegible] De[illegible] suspectum [illegible] a suspectione quoad temporalia [illegible] absolvendum [illegible]. [illegible]
[illegible] manifeste [illegible] instrum. [illegible] rasura in loco [illegible] facta nullam [illegible] fidem facere, [illegible]
[illegible] ut instrumento credatur oportet quod sit sine suspicione [illegible] Bullis, Chartis, et litteris [illegible], de privilegiis
[illegible] adeo, ei ad audientiam [illegible] rescripti. [illegible] C. de [illegible] Domini Adriani tollendo, [illegible] suspicio [illegible]
[illegible] induceret, [illegible] judicis animum immutet et in dubitatione vertat, et rasura [illegible] substantiali [illegible]
dependet [illegible] instrumenti, et annotatio temporis recensetur, [illegible] instrum. [illegible]
[illegible] debet instrumenti [illegible] ne ex dolo suo commodum reportet [illegible] vulgata [illegible] testimonium [illegible]
rescripti, [illegible] litteris de dolo, [illegible], l. itaque [illegible] ff. de furtis. [illegible] Gomez in d. l. 45. Tauri [illegible]
[illegible], Hostiensis, Dutrius, et Panormit. in [illegible]. =

Expendimus etiam hic [illegible] De fide instrumentorum
[illegible] instrumentum habens sigillum, quod [illegible] rasuram, seu [illegible] patet, et [illegible] litteras [illegible] legibiles, et [illegible] deleta
[illegible] fidem facit, [illegible] rasura instrumentum vitiat. [illegible] rasuram [illegible] instrumentum suspectum reddere, [illegible]
erat suspecta, et [illegible] nominis, de quo dubitabatur, [illegible], ut ex [illegible] colligitur manifeste, ut docet Panormitanus
[illegible] de crimine falsi, quod intellige, quando [illegible] instrumentum [illegible] publica manu factum [illegible]
[illegible] a sigillo auth. [illegible] n. [illegible], [illegible] publica manu [illegible] instrumentum [illegible] debitis solemnitatibus [illegible]
sigillum [illegible] vacillare [illegible], nec fidei [illegible] detrahit, [illegible] interdilecto [illegible] falsitatis [illegible], [illegible] nec publica
manu fuerat confectum, [illegible] instrumentum publica manu confectum, solemnitas sigilli necessaria [illegible]
[illegible] notant [illegible] necessitate requiratur sigillum, [illegible] defectus [illegible] instrumentum [illegible]
l. unica in princ. C. de rei uxoriae act., [illegible] ff. de rebus creditis, quam ad hoc pluribus [illegible]
33 [illegible] Abbas [illegible] Felinus [illegible] Mota [illegible] in princ. [illegible]
pluribus sequentibus. =

Lib. 2. tit. 25.

Materia de exceptionibus in qp-
ta anno Dni 1666 ostendenda

1666.

Scheda 26.

Expositio ad Titulum de exceptionibus

= ad Auricam =

Utilitas, et divisio tituli. =

Primarius Consiliarius noster antecessoribus titulum de exceptionibus hoc tempore tractare decrevi; vobis exponendum disponat, nobilissimi ac amantissimi auditores, est res in qua multa sunt; sana quae multa, amplissima, difficilis ac lucrosa in testibus [illegible] antiquis quam recentioribus scriptoribus, e docentibus quae hic decet [illegible] tit. de exceptionibus, id est de reorum defensionibus; qui, quoniam titulis praecedentibus actum erat de [illegible] libellis, et actionibus actoris, quibus se muniant contra reos, ut hi praedicti rei convenire [illegible] possent, et occurrere petentibus exceptionibus [illegible] fuere; ideoque ad [illegible] huius tituli de exceptionibus, [illegible] defendendi [illegible] comparatas fuisse. itaque ut ad singula huius tituli capita exponenda facilius, et commodius, et utilius perveniamus, [illegible] definitionem, divisionem, [illegible] explicare decrevimus [illegible] quae diligenter operam [illegible] pollicemur, [illegible] Deo [illegible] ea ordiamur. =

n. 2.

De excipere. Ubi excipere ex [illegible].

Itaque ubi excipere, [illegible] exceptio [illegible] habet [illegible] nunquam aliquid [illegible] excipere [illegible] lege [illegible] 47. § 1. [illegible] ab altero [illegible] excipere debet [illegible] excipiendum [illegible] Trebellianum [illegible] 14. ff. de [illegible] qui 41. ff. de [illegible] excipere [illegible] verbo [illegible] ff. [illegible] lege [illegible] 19. § [illegible] lib. 3. [illegible] cap. 29. [illegible] excipere [illegible] = [illegible] lege ult. ff. ad Velleianum, lege [illegible] § [illegible] ff. de [illegible] § [illegible] ff. ad Trebellianum [illegible] aliquid [illegible] excipere, ut [illegible] exceptionibus [illegible] lege ult. ff. ad Velleianum [illegible] exceptionibus [illegible] lege [illegible] 7. § [illegible] ff. de [illegible] tit. 3. [illegible] c. 43. [illegible] tit. 22. [illegible] c. 2. lib. 4. [illegible] =

Sellad

n. 3

Definitio exceptionis, et aliquorum [illegible].

Hinc [illegible] exceptionis definitio, [illegible] tit. 21 [illegible] cap. 27. [illegible] lib. 4. tit. 8. [illegible] tit. 3. [illegible] lib. 4. [illegible] in tit. de exceptionibus, et [illegible] tit. 22. [illegible] c. 4. [illegible] ut sit defensio qua exceptio [illegible] ipso iure [illegible] definitio [illegible] lib. 2. [illegible] 22. ff. [illegible] tit. de exceptionibus, [illegible] definitio [illegible] tit. 10, [illegible] lege [illegible] 17. § 1. ff. [illegible] exceptiones [illegible] cap. [illegible] 10. cap. [illegible] tit. de exceptionibus [illegible] cap. [illegible] tit. 6. [illegible] tit. de exceptionibus [illegible] ff. [illegible] = [illegible] exceptiones [illegible] et [illegible] exceptionis fundamentum, [illegible] exceptionis [illegible]

[illegible]

nitatur l. cum quis 12. ff. de dolo malo et metus except. l. Marcellus 66. ff. de [illegible], nec in merito quidem [illegible] [illegible] libello [illegible] [illegible] exceptionem, et similiter [illegible] actores [illegible] exceptionem [illegible] [illegible] [illegible] in [illegible] [illegible] [illegible] [illegible] exceptionem [illegible] [illegible] appellando. =

Circa [illegible] defin. [illegible] [illegible] opponitur actioni et [illegible]

n°. 4.

in quamlibet exceptionem [illegible], dilatoriam, quae [illegible] et excludendam actionem [illegible] l. [illegible] 12 [illegible] [illegible] [illegible] [illegible], quamvis [illegible] debiter habeat exceptionem [illegible] [illegible], [illegible] [illegible] §. [illegible] ff. de constituta pecunia, l. 2. §. [illegible] ff. de dolo mali et metus except., [illegible] exceptionem [illegible] [illegible] actorem, [illegible] [illegible] [illegible] l. [illegible] ff. de except. rei iudicatae, ideoque nihil [illegible] quia actor [illegible] habeat exceptionem [illegible] [illegible] l. Marcellus 66. [illegible] 112 ff. de [illegible]. = [illegible] [illegible] [illegible] [illegible] exceptionem [illegible], quamvis [illegible] defensio quae [illegible] opponitur [illegible] [illegible] exceptionem [illegible], [illegible] illa, quae [illegible] de [illegible] [illegible] et excludendam [illegible] [illegible] [illegible] l. 2. ff. [illegible] [illegible] exceptio [illegible] [illegible] tollit, aut minuit condemnationem [illegible] [illegible] [illegible] de Rescindenda, [illegible] [illegible] l. [illegible] C. [illegible] [illegible] [illegible] 57 [illegible] n°. 2. [illegible], exceptio dicitur, quae minuit [illegible] condemnationem [illegible] [illegible] [illegible] [illegible] ff. de rescindenda [illegible] exceptio [illegible] opponitur [illegible] [illegible] [illegible] venditori [illegible] [illegible] similiter de except. [illegible] [illegible] [illegible] condemnationem, [illegible] [illegible] [illegible] de exceptionibus [illegible] [illegible] =

n°. 5.

Et hac [illegible] defin. [illegible] exceptio [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] exceptionem [illegible] [illegible] controversia [illegible] [illegible] exceptionem, [illegible] [illegible] l. [illegible] exceptio [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] exceptio [illegible] [illegible] [illegible] exceptiones [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] exceptio [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] defensio [illegible] adducta. = [illegible] exceptio [illegible] [illegible] [illegible] [illegible] [illegible] defensio [illegible] [illegible] [illegible] [illegible] ff. [illegible] [illegible] exceptionibus l. [illegible] 22 ff. de dolo [illegible] except. [illegible] [illegible] ff. de [illegible], l. [illegible] ff. de constit. pecunia. [illegible] [illegible] exceptio [illegible] [illegible] [illegible] [illegible] [illegible] tollere exceptionem [illegible] [illegible] [illegible] ff. [illegible] [illegible] [illegible] ff. [illegible] [illegible] actio, [illegible] exceptio [illegible] l. 2. [illegible] [illegible] ff. de [illegible] [illegible] [illegible] de [illegible], [illegible] exceptio [illegible] [illegible] actio, [illegible] [illegible] [illegible] ff. de [illegible]. =

n°. 6.

[illegible] tradit exceptio [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] ff. de [illegible] [illegible] [illegible] [illegible] [illegible] exceptio [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] exceptio. = [illegible] [illegible] [illegible] [illegible] exceptio [illegible] [illegible] [illegible] defensio [illegible] [illegible] exceptio [illegible] [illegible] [illegible] exceptio appellationis, [illegible] [illegible] [illegible]

[illegible]

Circa [illegible] [illegible]

quod [illegible] [illegible] exceptio [illegible]

[illegible] [illegible] [illegible]

Caesarius(?) conf. ... 2. § 6. et in ... dicitur, q. illud ab lege ... forma ... [illegible] ... dum, et ideo ... Principem appellatio tollitur l. 2. § ... ff. a quibus appellare non licet, ... Canonico ... appellationis ... cap. ... de ... cap. ... cap. ... 16. ... appellationibus. = 2° ... videtur exemplo ... ubi ... videtur, quatenus ... exceptiones tolli ... cap. 1°. de ... ... clausulae ... quae ... formam ... cap. ... Roman. 6. de appellationibus ... q. superiorem difficultatem tollit, ... quod ... aufert exceptionem ... id quod ad formam exceptionis ... lege ... exceptionem; ... = [illegible]

n.° 7 — S... [illegible] ... exceptionem ... Principem ... tolli nequeant, quales ... absolute ... clausulae ... Principes tollere possunt, ... exceptiones ... procuratoria, ... ut docent Coll. pract. 97 ... n.° 6. et ... C. de ... 1ª p. cap. 2°. n.° 22 ... videtur, ... affirmat ... ut ... exceptionem ... legitimus defensor admittendus sive ... exceptionem ... principalis ... = [illegible]

n.° 8 — [illegible] ... exceptionem ... formam, ... defensor ... exceptionem ... de exceptionibus ... l. ... ff. de ... et ... ff. de doli exceptione ... = ... = [illegible]

n.° 9 — [illegible] ... exceptiones ... Principe ... = [illegible]

probatur ex eo text. in leg. 3. §. si is proquo ff. ad quisque juris, leg. exemplo 16. C. de decurionibus [illegible] vers. quod

monstratur, quia exceptiones juris [illegible], licet quaelibet concedantur Princeps tollere potest d. §. [illegible] et de

[illegible] juris et civili, id sicut [illegible] est lex auctoritate [illegible] destituta d. cap. [illegible] lex quae [illegible]

lege publica conservare [illegible] Princeps sive regni [illegible] potest quemadmodum nec tollet [illegible] sine lege

[illegible] l. 2. §. si quis a Principe ff. ne quid in loco publico [illegible] Cum [illegible] potest Princeps exceptiones

et defensiones privatis adimere [illegible] leg. 2. [illegible] leg. penult. ff. de [illegible] restituendis, quae [illegible]

[illegible] l. bona fides 31. ff. depositi, similiter [illegible] potest declarare [illegible]

[illegible], [illegible] plura [illegible] Flamengus [illegible] q. 69. n. 4. [illegible] Valenz. [illegible]

Gutierrez lib. 2. pract. q. 24. et alii plures quos refert et sequitur [illegible] in Collect. ad [illegible] Coll. 43. n. 9. =

n. 10

Limita [illegible] Statuimus [illegible] Princeps [illegible] exceptiones [illegible] adimere [illegible] potest [illegible]

personis [illegible] exceptiones [illegible] personis [illegible] tollere [illegible]

fundamentum comprobatur, quoniam nulla [illegible] potest, cum [illegible] leges, per quas [illegible] defensio

[illegible], vel [illegible] licet quoad aliquas speciales exceptiones [illegible]

ff. quod [illegible] in qua [illegible] exceptiones [illegible] Riccius [illegible] C. de [illegible]

dict. 1 p. cap. 1. n. 12. [illegible] Coelli lib. 22. [illegible] cap. 1. litt. A. et alii [illegible] ad [illegible]

[illegible] 29. §. [illegible] ff. mandati [illegible] exceptiones [illegible]

tollere [illegible], quia dicunt exceptiones [illegible] Principem aut legem tolli [illegible], nec [illegible] statuto [illegible] Municipali

[illegible], quoniam [illegible] Statutum, quam [illegible] potestas [illegible] Municipalia [illegible]

tolli potuerunt exceptiones [illegible], aut [illegible] habent [illegible] Quinimo affirmant [illegible]

[illegible] tollere appellationem [illegible] devolutivum [illegible] tollere [illegible]

[illegible], quia [illegible] remediis [illegible] reparari potest. amplius [illegible] exceptiones [illegible]

[illegible] exceptiones [illegible] ex quibus [illegible] in d. l. si [illegible] 29. §. [illegible]

ff. mandati [illegible] Bellon [illegible] cap. [illegible] =

n. 11.

[illegible] nullis [illegible], [illegible] exceptiones

[illegible] quamvis licet [illegible], Verdus [illegible] exceptiones

[illegible], vel [illegible] quolibet modo [illegible], probatur hoc [illegible] leg. 4. §. [illegible] ff. [illegible]

et leg. [illegible] 29. §. [illegible] ff. de [illegible], et hac [illegible], quoniam [illegible]

quia [illegible] exceptiones [illegible], [illegible] d. l. 16. hoc [illegible]

ex dolo actoris exceptiones [illegible] licet [illegible] dolo [illegible], quoniam [illegible]

[illegible] l. [illegible] 7. §. illud ff. de pactis, [illegible] doli exceptionis [illegible] exceptiones

Nec [illegible] in d. l. 4. §. [illegible], et in d. l. [illegible] §. [illegible] intellectum [illegible]

[illegible] exceptiones, [illegible] in judiciis Vades, [illegible]

[illegible] in quibus [illegible] exceptiones [illegible] specialis [illegible]

[illegible] remedium [illegible] Valida, [illegible] exceptiones [illegible]

[illegible]

[illegible] ad [illegible] specialis [illegible]

[illegible] exceptionibus [illegible] Abbas [illegible]

[illegible] lib. 7. [illegible] cap. 27. [illegible] Coelli lib. 16. [illegible] cap.

[illegible] lib. [illegible] cap. 1. [illegible] plurimis [illegible] =

Et

De exceptionibus [illegible]

n.º 12

4.º tanquam [illegible] superiori resolutione [illegible] exceptiones [illegible] notamus exceptiones omissas minime suppleri posse ex officio [illegible] fundamentum [illegible] in lege [illegible] 4 [illegible] ff. de publiciana, [illegible] tanquam verior amplectenda est, quamvis [illegible] sufficient [illegible] supplendas omnes exceptiones duplici ratione [illegible]: 1.º quia [illegible] deficit litigatoribus [illegible] supplet l. unica C. ut [illegible] deficit advocatus suppleat judex. 2.º quia [illegible] ille [illegible] habere debebat, [illegible] l. [illegible] §. [illegible] ff. de dolo [illegible] certo loco, cum [illegible] consentaneum est ut defensio rei servet illaesum, quam [illegible] in medio [illegible] in lege [illegible] de C. de [illegible] 7. [illegible] facile [illegible], quoniam [illegible] litigantibus [illegible] ut [illegible] sibi concessa fungi valeant, exceptionibus [illegible], nec judex [illegible] suppleri [illegible] tamen [illegible] defectus = [illegible] superior traditio [illegible] temperandae [illegible] omnis exceptio [illegible] [illegible] [illegible] apparet evidenter de exceptione [illegible] aliud [illegible] legitima [illegible] debito [illegible] alter [illegible] a reo quod sibi [illegible] deberi [illegible], ut [illegible] tradit [illegible] n.º 22 [illegible] cap. [illegible] Litt. N. [illegible] n.º 6 [illegible] Papiniani [illegible] 4 [illegible] ff. de publiciana, [illegible] de [illegible] cap. [illegible] n.º [illegible] et aliis plures, quos refert et sequitur [illegible] n.º [illegible] 4 [illegible] pluribus sequentibus =

n.º 13.

5.º [illegible] [illegible] [illegible] [illegible] in ea exceptione [illegible] exceptionibus [illegible], [illegible] exceptio, [illegible] se defendit post rem judicatam. [illegible] defensio exceptione [illegible] [illegible] fundamentum. 1.º quia post rem judicatam [illegible] de ea [illegible] lex post [illegible] ff. de re judicata. 2.º quia exceptiones [illegible] observat [illegible] ut [illegible] excluderent, [illegible] eludere quod [illegible] deductum est. 3.º quia exceptionis natura est ut actionem [illegible] ut tollant, aut minuant [illegible] de [illegible] n.º 6 [illegible] = [illegible] [illegible] exceptio [illegible] [illegible] post rem judicatam, licet enim regulariter exceptiones [illegible] omnes [illegible] admittantur post [illegible] defensiones [illegible] exceptiones [illegible] [illegible] constat ex [illegible] lege [illegible] 17. cum [illegible] ff. de re judicata l. [illegible] 12. l. [illegible] 17. §. [illegible] ff. [illegible] §. [illegible] = [illegible] exceptiones [illegible] [illegible] quod [illegible] quaelibet [illegible] n.º 2 [illegible] cap. 2 n.º 8. [illegible] Var. cap. 12. n.º 20 et aliis plures, quos refert et sequitur [illegible] in lege [illegible] C. de [illegible] =

n.º 14.

6.º [illegible] ad exceptiones [illegible] quod [illegible] actio [illegible], [illegible] exceptio concedatur [illegible] inefficacem [illegible] [illegible] exceptio tendit [illegible] ad tollendam actionem, aut [illegible] minuendam, l. exceptio 22 ff. [illegible] si actio efficax [illegible], [illegible] quod per exceptionem tolli [illegible] ad dissolvendum [illegible] [illegible] secundario, [illegible] quod actio [illegible] differt [illegible] apud [illegible] accipiuntur actio [illegible], ut [illegible] ex Cicerone [illegible] ad [illegible] [illegible] depellit, [illegible] actionem [illegible], depulsio [illegible] exceptionibus, [illegible] in lege [illegible] 66 ff. de [illegible] 7. [illegible] ff. de [illegible] §. [illegible] [illegible] ff. communia [illegible] l. [illegible] §. [illegible] ff. l. [illegible] notari [illegible]

[illegible]

Bruenus, Otoneus, et Gilmius de Ubi[...] Juris [...] = n.° [...] est exceptio, et defensione promiscue pro eodem accipi, ut notat [...] in l. [...] 8. ff. hoc tit. de exceptionibus [...] l. defensio C. eodem tit. l. 1.a C. de [...] facti ignorantia, cum quae omnis exceptio defensio dicitur, et omnis defensio exceptio sive per [...] actio, [...] ipso iure sublata fuit, sive illa, quae adhuc vim suam retinent. [...] Cott. [...] de A. 1. tit. 6. [...] 4. et [...] l. tit. 8. tit. 3. ordinamenti [...] 1.° [...] n.° ad 27. =

n.° 15.

Quibus duobus [...] factis statuimus, ea, certo docemus exceptionem [...] opponi posse adversus actionem, cum [...] adhuc perdurat, [...] deducitur actio [...] opponi posse, [...] propriam et veram exceptionem, [...] adversus actionem, quae antea ipso iure sublata fuit, [...] ut [...] exceptio opponatur adversus [...] efficacem [...] actio, [...] tollitur illud factum quod in exceptione [...] probatur aperte [...] l. 2. ff. hoc eodem tit. de exceptionibus, [...] exceptionem [...] ad [...] exclusionem, postea declarat hoc dicens per exceptionem eludi quidquid [...] quibus [...] aperte demonstrat veram exceptionem [...], [...] hoc est ad [...] vel affirmationem quae aliquid [...] postulatur, ut docet [...] hoc tit. de exceptionibus [...] affirmat [...] solutionis propriae et verae exceptionis est [...] de [...] exceptione [...] exceptionibus [...] exceptio [...] et denique [...] proveniens, quoniam exceptio plerumque dicitur [...] adversus actionem [...], quamvis [...] aut ex [...] aut [...] quamvis [...] contrarii [...] Bologn. [...] C. [...] 6. et [...] C. [...] de exceptionibus [...] =

n.° 16.

[...] exceptio [...] veram exceptionem [...] facta [...] [...] quae [...] variis [...] ut [...] alia [...] perpetua [...] alia temporalis et dilatoria, probatur hoc [...] l. [...] ff. [...] tit. [...] appellantur [...] tit. de actionibus, et [...] capit. [...] 6. l. [...] C. [...] l. exceptionis 19. C. de [...] C. [...] l. [...] tit. 8. tit. 3. [...] l. 5. tit. 5. [...] = Peremptoria exceptio est, quae [...] et [...] veluti exceptio doli mali, [...] pacti [...] [...] similis [...] l. 3. ff. de exceptionibus [...] appellantur [...] tit. de actionibus. = Dilatoria et temporalis est, quae ad tempus nocet et dilationem [...] [...] aut [...] veluti exceptio, quae opponitur [...] actori, qui non habet legitimam personam standi in iudicio, vel quia minor est l. 1.a C. qui legitimam personam standi in iudicio habet, aut [...] veluti exceptio [...] vel recusationis [...] l. [...] 12. C. de exceptionibus, aut [...] et alii similes, de quibus in l. 2.a C. [...] Imperatoris [...] Bolognetti [...] 3. [...] tit. 22. [...] cap. 9. [...] =

n.° 17.

Denique [...] exceptiones [...] appellantur aut [...] quae [...] cohaerent [...] atque [...] quae [...] principalibus [...] debitoribus [...] 12 [...] C. [...] tit. [...] 12. [...] perpetuas, [...] exceptio [...] [...] quae [...] veluti [...] militiae [...] facere [...]

exceptio

d. l. except. [illegible] loco cit. nam exceptiones aut in numero peremptoriarum recensentur, aut dilatoriarum, aliquo privilegio [illegible] ut in [illegible] peremptoriarum opponi possunt, et in [illegible] ad [illegible] [illegible], itaque dilatoriae exceptiones [illegible] exceptiones [illegible]; [illegible] omnis exceptio dilatoria [illegible] [illegible] [illegible] [illegible] minus, quam [illegible] omnis peremptoria et prohibitiva exceptio [illegible] intelligitur [illegible] toria, [illegible] [illegible] fundamentum est quia licet actum [illegible] excludat, proxime dilatoriis exceptionibus, [illegible] [illegible] [illegible] differunt, tradunt ita Maran. [illegible] [illegible] [illegible] cap. [illegible] Guerrer. [illegible] num. 3. Cobb. [illegible] [illegible] [illegible] hinc apparet [illegible] exceptio declaratoria [illegible] exceptio [illegible] [illegible] [illegible] loco cit. L. 2. C. [illegible] Valetudinibus publicis L. 2. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] defendens, =

n.º 48.

[illegible] [illegible] exceptiones [illegible] [illegible], [illegible] exceptiones quae [illegible] appellantur, de quibus [illegible] L. ult. C. loco cit. de exceptionibus L. 2. [illegible] Valetudinibus publicam leg. [illegible] C. de procuratoribus L. [illegible] C. ad [illegible] [illegible] C. ad [illegible] Iuliam de adulteriis, [illegible] exceptiones [illegible] appellantur [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] loco cit. [illegible] exceptionibus multa tradunt Cobb. [illegible] [illegible] [illegible] Guerrer. [illegible] cap. [illegible] Robles [illegible] Menochius [illegible] [illegible] [illegible] exceptiones; [illegible] exceptiones appellantur [illegible] [illegible] [illegible] [illegible] [illegible] exceptiones temporant, aut [illegible] tollunt, [illegible] [illegible] [illegible] loc. cit. de exceptionibus [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] exceptiones, quae ex tempore [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] X. = [illegible] exceptiones [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] de Ordine Cognitionum [illegible] C. de [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] =

n.º 49.

[illegible] [illegible] appellantur [illegible] de quibus [illegible] [illegible] de exceptionibus [illegible] [illegible] [illegible] [illegible] Macedonianum, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] exceptio [illegible] [illegible] [illegible] [illegible] exceptio [illegible] [illegible] [illegible] fol. 454. = [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] exceptione [illegible]

[illegible]

repelleret [illegible] ut [illegible] Caballus [illegible] c. 2. [illegible] = [illegible]

Denique pro [illegible] complem.to [illegible] replicationem, exceptionem [illegible] [illegible], [illegible] quod [illegible] Vincal. [illegible] l. 2. §. replicatio, et §. illud ff. de excep. [illegible] perpetuum ordine defensionis, [illegible] replicatio [illegible] duplicatio, et triplicatio, ac deinceps [illegible] exceptio, [illegible] ex pacto [illegible] Caput [illegible] de replicationibus. [illegible] replicatio [illegible] exceptio, [illegible] exceptio, [illegible] replicatio [illegible] [illegible] [illegible] exceptionem [illegible] excludat [illegible] [illegible] replicatio [illegible] exceptio [illegible] aut dolo [illegible] exceptio doli, vel [illegible] exceptio [illegible] duplicatio [illegible] exceptio [illegible] replicatio [illegible] exceptio triplicatio dicitur [illegible] [illegible] exceptio [illegible] replicatio [illegible] = [illegible] [illegible] excludit [illegible] exceptio [illegible] exceptionem, et duplicationem [illegible] replicatio [illegible] exceptio [illegible] replicatio [illegible] exceptio [illegible] replicatio [illegible] de dolo [illegible] Caballus [illegible] c. 22. [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

Expositio ad Textum in cap.º 1.º hoc

= cum tit. de exceptionibus =

Huius [illegible] author est Celestinus 3.º [illegible] hoc [illegible] anno dni 1191 [illegible] tractatus de exceptionibus [illegible] exceptio [illegible] testes opponit [illegible] Crimine [illegible] aut infamia [illegible] de [illegible] exceptionibus [illegible] [illegible] proponendo [illegible] Crim. [illegible] testimonij [illegible] nec [illegible] quo temp.e exceptio [illegible] debeat, et docet proponendam [illegible]

Denique [illegible] exceptionibus [illegible] Crimen [illegible] testes [illegible] [illegible] [illegible] [illegible] [illegible] exceptio [illegible] [illegible] [illegible] [illegible] probatur, nec [illegible] matrimoniales, [illegible] =

n.º 2.

Ex quibus, et ex [illegible] sequitur deducendum [illegible] Depositiones testium, quorum crimina probata fuerint [illegible], veris [illegible] repellendas, [illegible] crimina probata fuerint [illegible] crimina de quibus [illegible] fuerint, vel confessi, et [illegible] probatis criminibus, nullius fidei, et roboris [illegible] testimonium illius [illegible] ordinaria [illegible] cap. [illegible] 7. cap. [illegible] 7. cap. testimonium 54. [illegible] de testibus, et attestationibus, cap. licet [illegible] 9. de probationibus [illegible] 7. de testibus [illegible] Ordine [illegible] cap. [illegible] 4. cap. [illegible] 5. 3. [illegible] 5. [illegible] 11. cap. [illegible] 47. 6. [illegible] probatur ex [illegible] 3. §. lege Julia ff. de testibus, [illegible] 11. ff. de his qui notantur infamia, [illegible] C. de [illegible] 1. 1. [illegible] de [illegible] Regio probatur ex [illegible] 16. [illegible] 3. et [illegible] 3. et 4. [illegible] 6. [illegible] 1. 1. 7. [illegible] Cobarruvias [illegible] cap. [illegible] n.º 1.º Petrus Greg. [illegible] 5. [illegible] 9. cap. 6. Farinacius [illegible] 47. [illegible] cap. 43. [illegible] 5. Ver. cap. 11. n.º 22. Molina [illegible] 1. de [illegible] 9.ª 7. [illegible] 5. 117. [illegible] 9.ª 49. n.º 12. Tiberius Decianus 1.º [illegible] tractatus criminalis [illegible] cap. 24. per totum [illegible] de testibus 9.ª 56. per totum Mascardus de probationibus [illegible] 464. 9.ª 5. et alii [illegible] Barbosa in collectaneis ad [illegible] 2 [illegible] =

n.º 3.

[illegible] Veritatem [illegible] difficultas [illegible] sequenti [illegible] [illegible] repellendas [illegible] quibus opposita sunt crimina [illegible] a testimonio [illegible] repelli debere, et ex [illegible], quia nullus testis repellendus est a testimonio [illegible] probetur [illegible] 4. 9.ª 3. [illegible] et [illegible] l. 3. §. lege Julia ff. de testibus, [illegible] et [illegible] 48. [illegible] ff. de his qui notantur infamia, [illegible] nullus debet aliquo suo jure privari [illegible] cap. 4.º [illegible] cap. 1.º de [illegible] Ordinariis [illegible] repellantur, sine dubio [illegible] ille qui commisit crimen [illegible] repellitur a [illegible] testimonio, [illegible] =

n.º 4.

Secunda difficultas [illegible] per exceptionem [illegible] [illegible] quibus [illegible] testes [illegible], vel confessi, illos a testimonio repelli, [illegible] et [illegible] ex hac [illegible] quoniam ille qui [illegible] confessus [illegible] crimen, aut quandocumque [illegible] proprio [illegible] debet stare, [illegible] 1.º [illegible] de [illegible] 17. de [illegible] [illegible] voce [illegible] 10. de [illegible] [illegible] testes [illegible] fuerint crimen [illegible] [illegible] cap. [illegible] 33. §. porro de electione, et electi [illegible] cap. [illegible] de [illegible] cap. quoniam [illegible] cap. [illegible] =

n.º 5.

3.ª difficultas [illegible] testes [illegible] crimina [illegible] a testimonio [illegible] repellantur [illegible] Ordinaria [illegible] cap. [illegible] de electione [illegible] [illegible] examinata [illegible] [illegible] electione [illegible] [illegible] exceptione [illegible] [illegible]

Testes Criminosi non debeant repellendi ad judicium venire specialiter ad testimonium perhibendum, a quo ... jure expostulante &c. de quo infra n. 8. =

n.º 6.

Sed ultima difficultas proponitur adversus generalem ... quia Canones Criminosos, infames et maculatos a testimonio dicendo repellendos esse, et in hac Causa ... probationum facultas non debet restringi, et coarctari, ne ... veritas occultetur, prout ... quoniam ... ut ... contestatur cap. significasti 41. cap. Cum ... 55. de testibus, et ... cap. final. de testibus Covarruvias, cap. ult. 24. ... C. de ..., si testes Criminosi, et infames ... repellerentur a testimonio dicendo, facultas probationis nimis coarctaretur, ... in cap. 3.º ... cap. nisi ... 10. ... de ... igitur repelli non debent testes ... Criminosi, aut infames ... exceptionem probatam ... statuitur. =

n.º 7.

His difficultatibus minime respondentes dicimus ... Criminosos ... ut facilius demonstrare possimus ... animadvertendum ... que ... tractatu de testibus ... notamus ... de testibus prohibitis esse, et certas personas ... ad testificandum admittantur, nisi specialiter ... prohibitum sit, l. 1. § 1.º ff. de testibus, auth. ... testibus ... Farinacius de testibus q. 53. n. 1.º ... de accusationibus ... q. 2. l. qui accusare ff. de accusationibus l. 1.ª et toto tit. C. qui accusare ... et docet ... tit. ... cap. 12. n. 1.º ... de procuratoribus l. ... 43. § 1.º ff. de procuratoribus, ... l. 1. ff. de postulando, l. ... cap. ... 23. de ... = Vel ... testem, cujus depositio admittatur ... probet et idoneus, vel fide dignus ... quoniam testis habetur ... prohibitionis ... generaliter ... ad testimonium, nisi ... aliquo prohibitus inveniatur, et ... bonus, et idoneus praesumitur cap. ult. ... de Testimonio ... cap. ... 1. q. 2. ... Menochius de praesumptionibus ... n. 15. ... si pars vellet testes ab adversa parte productos repellere, objiciendo illorum defectus ... illos probare ... probatio illorum ... exhibenda est ... pars ... duxit ... illorum idoneitatem probare ... simplicium praesumptionem ... testes ... Narbona ... tit. 7 ... recopilationis ... =

n.º 8.

Deinde ... extat ... de repellendis testibus Criminosis ... nominatim Criminosos ... homicidas, maleficos, sacrilegos, fures, adulteros, incestuosos, ... sortilegos, perjuros, falsarios, et alios ... qui ... Criminosos ... qui peccata commiserunt ... ut ... Didacus Perez ... tit. 4. ... Ordinam. ... Gomez t. 3. Var. cap. 12. n. 15. ... lib. 1.º tit. ... 4. recopilationis n. 16. Mascardus de probationibus ... 464. n. 1. et Farinacius q. 56. n. 127. ... Criminosi ... generaliter ... Valet, quia Criminosus ... a fide testimonii ... repellitur ... testibus tit. 6. cap. ... lib. ... tit. 4. recopilationis, ... ut excepto ... = ... ad repellendos testes Criminosos a fide ... multa Crimina ... sufficiere ... testes repelli ... Criminaliter ... tit. 6. ... testimonii ...

Crimine testem reprobari, nam si tres vel [illegible] accusauerint, quod exceptio opponitur contra plures testes in eadem causa, aut in diuersis, aliud autem obseruabitur quando unus singularis testis excipitur [illegible], ut in dicto cap. testimonium, testis singularis, et in dicto cap. Constitutus 3. 9. et 5. vide qui [illegible] docet Coll. pract. q. 7. c. 28. n. 8. =

n.º 9.

Hinc descendit hos testes Criminosos in eadem causa principali productos, qui appellantur testes probatorios in cap. Licet dilectus 49. de testibus, exceptione Criminis reprobari posse ex [illegible] similibus, quia exceptio similiter opponi potest contra testes, quos testes probatorios reprobantur, qui dicuntur testes reprobatorii in dicto cap. Licet dilectus, videndi quos tradunt Speculator [illegible] de testibus reprobatoriis in [illegible] n. 3. et Farinacius de testibus q. 62. n. 23. Quinque tamen haec exceptio ut in Licet ad reprobandos testes reprobatorios reprobationis, ut singulariter affirmat [illegible] in dicto cap. dilectus 49. de testibus, ubi [illegible] Ca[illegible], ne in infinitum lites protrahantur. = Ut proueniat Crimen specifice obiectum probatum in iudicio, [illegible] opponitur, sufficiens est ad [illegible] repellendum, licet [illegible] antea testis damnatus, aut inquisitus non sit, ut [illegible] in cap. Superlo 13. de testibus, et [illegible] cap. [illegible] in Criminalibus et [illegible] hanc doctrinam accipiendam esse [illegible] sola, [illegible], quod Crimina testibus opponuntur, de quibus antea [illegible] aut Confessi sunt, possunt repelli a testimonio, [illegible] Crimina tantum, de quibus antea [illegible], aut Condemnati sunt testes, desseruntur ad eos repellendos, [illegible] affirmandum sit ut repelli valeant per Crimina, de quibus antea accusati, aut Condemnati non fuerunt, si in ipsa exceptione fuerint Comprobata [illegible] in dicto cap. Superlo 13. de testibus, videndi quos late tradunt Farinacius de testibus q. 56. art. 3. per totum, ubi de hac Criminis dispu[tat], et Mascardus de probationibus conclusione 464. [illegible] 7. =

n.º 10.

Sed antequam hinc [illegible] illa occurrit in [illegible] decidenda Controuersia, an Emendatio a Crimine inter Criminosos enumerari, ut eadem exceptio, [illegible]. Cui quaestioni licet affirmatiue, et negatiue [illegible] utraque in [illegible] fundamentis, sequenti [illegible] decidenda iudicamus, [illegible] in causis Criminalibus Criminaliter [illegible] testes Criminosos, quamuis emendati inueniantur, adhuc a testimonio repelli debent, et [illegible] Criminis exceptio; in causis autem Ciuilibus, aut etiam in Criminalibus ciuiliter actis, [illegible] praestabitur eis fides, nisi opponatur Crimen periurii, aut ex quo infamia repellat, ut [illegible] in dicto cap. testimonium [illegible] [illegible] perdat, quia licet emendatus a peccato [illegible] Criminosus quoad [illegible] exceptio [illegible] in cap. [illegible] 44. de [illegible] tamen liberatur a [illegible] externo imposita L. [illegible] nova 54. §. [illegible] de testibus, nisi in Criminibus a [illegible] expressis, Veluti in Clericis ad sacros ordines promouendis, quos [illegible] antea [illegible] Crimina, [illegible] impedientia ad Ordines Constat, [illegible] Cum[illegible] 50. [illegible] in dicto cap. testimonium, in quo illud tantummodo [illegible] Criminosis [illegible] quod in negotiis Ciuilibus, aut Criminalibus Ciuiliter actis exceptio Criminis [illegible]. In Criminalibus autem nullum priuilegium eis deinde [illegible], [illegible] repelli possunt testes [illegible] post emendationem, quia causae Criminales [illegible] sunt, et maiorem inferunt [illegible], [illegible] in Controuersiis matrimonialibus [illegible] testimonium [illegible]. In Ciuilibus et causis [illegible] Ciuilibus [illegible] testes emendatos recipiendos testimonium, quos referunt [illegible] Mascardus, et Farinacius [illegible]. Testis [illegible] affirmantes [illegible] emendatos [illegible] Vide [illegible] =

n.º 11.

Rursus Communiter [illegible] testes Carere debere [illegible] testes dicitos qui in Criminibus [illegible] inciderunt cap. accusatio 15. 2. q. 7. nam alias [illegible] in [illegible] [illegible], aut [illegible] vel [illegible] cap. [illegible] 44. de [illegible] L. dolo 6. C. de dolo; Ut quamuis [illegible] in [illegible] sit, [illegible] Crimine accusatus, [illegible] aut Custodia publica detineatur, [illegible] fides, [illegible] a testimonio [illegible] L. [illegible] §. [illegible] de testibus cap. ult. de testibus [illegible] videndi quos tradit Cumanus [illegible] q. 56. n. 163. = [illegible] testes [illegible] qui [illegible] Crimine publico [illegible] testimonio [illegible], [illegible]

[illegible] testibus [illegible] [illegible]

Cap. similiter 10. 2. q. 5. dicuntur quaelibet falsa crimina aliis opponent [illegible] Calumniantium ad [illegible] qui [illegible] [illegible] damnantur in fronte littera K calumniatoris, ut notat Cujacius lib. 7. observat. cap. 13. = Quo expedit [illegible] decisione [illegible] ff. de testibus, ubi affirmat expedire ad officium [illegible] inquirere ut integrae frontis sit, qui testimonium dicat, quamvis proprie loquatur de Calumniatoribus [illegible] testimonio, ut ostendunt [illegible], lex quae integrae frontis [illegible] affirmat propterea quod frons lex signabatur [illegible] littera K ut iam diximus, [illegible] dicimus eodem manifeste macula notari [illegible] procedere affirmamus in iste Criminoso [illegible] delicti, aut [illegible] auferatur, aut lingua abscinditur, brachiumve [illegible] notatur, [illegible] leges [illegible] et [illegible], quod [illegible] maculae manifestam [illegible], a testimonio [illegible] =

no. 12

Nec difficultatem nostram movet dicere frustra [illegible] testes [illegible] manifeste macula notatos specialiter a testimonio ferendo repelli, [illegible] Criminosi [illegible] videtur, [illegible] suspecti, et notati manifesta macula [illegible] fuisse specificam [illegible] ut manifeste macula notati [illegible] a testimonio repellerentur, [illegible] ut obstet testibus Criminis exceptio, necesse est quod [illegible] Crimen [illegible] delicti [illegible] diximus, [illegible] repellantur testes suspecti, vel [illegible] macula manifesta, [illegible] aut [illegible] Criminis specialis, [illegible] sufficit [illegible] Criminis [illegible] tradit [illegible] Andreas [illegible] Felinus, et Decius [illegible] Coll. [illegible] cap. 18. no. [illegible] Julius Clarus lib. 5. [illegible] q. 24. no. 20, [illegible] solutio [illegible], quamvis [illegible] intelligenda [illegible] respectu [illegible], [illegible] manifeste Criminosi a testimonio repellat [illegible] quod [illegible] testes a testimonio [illegible], [illegible] manifesto Crimine notetur [illegible] Crimen [illegible] ut [illegible], [illegible] excepti si [illegible] manifesta Criminis Comprobatio, [illegible] de [illegible] Criminosos testes, [illegible] et manifeste macula notatos [illegible] a testimonio ferendo repelli debere, [illegible] ut iam diximus. =

no. 13

Deinceps cum [illegible] doceat aliquem [illegible] infamia deberi testes ut [illegible] [illegible] ad testimonium possint admitti, expedit ut breviter de infamia, eiusque speciebus agamus. Itaque dicimus [illegible] [illegible] nihil aliud esse, quam bonae famae privationem, seu diminutionem famae [illegible] dignitatis [illegible] moribus Comprobatus, atque in illo [illegible] L. Cognitionum [illegible] ff. de Variis Cognitionibus, [illegible] status diminutio, quae per privationem famae contingit, ut docet Suarez [illegible] diversis [illegible] Variis [illegible] scripturis, nos [illegible] no. 6, [illegible] sequentes [illegible] esse infamiam [illegible], alteram facti, aliam [illegible] Canonicam = Infamia [illegible] opinionis seu dignitatis [illegible], vel diminutio probata aut [illegible] facti aliquid prohibentis [illegible] l. Cognitionum, [illegible] existimatio, quae [illegible] vel [illegible] Cuius exemplum extant in cap. [illegible] 10, cap. [illegible] de haereticis, [illegible] ff. de his qui notantur infamia, L. [illegible] 43. [illegible] ff. de [illegible], Vel [illegible] L. [illegible] 6. ff. de his qui notantur infamia [illegible] 5. [illegible] 7. = Infamia facti dicitur quaedam famae nota [illegible] facto aliquo, quod licet [illegible] notatur, apud bonos [illegible] viros [illegible], aut minuit [illegible] l. 2. ff. de Obsequiis [illegible] l. [illegible] 6. [illegible] 7. = Infamia Canonica est, quae [illegible] cuiusque peccato mortali, illaque durat, dum peccatum perseverat [illegible] cap. testimonium cap. [illegible] plura [illegible] infamiae [illegible] cap. [illegible] no. 2. [illegible] 6. cap. 7. q. 3. et Tiberius Decianus lib. 3. Criminalis cap. [illegible] no. 18. [illegible] =

[illegible]

n.º 14

Hinc provenit investigandum an quaelibet infamia tollat omnimodo, aut diminuat aliquatenus fidem testis. Et de infamia iuris asserimus illa notatos a perhibendo testimonio arceri in omni causa Civili, et Criminali, hoc probatur ex textu, ex cap. licet ex quadam[47] de testibus et attestationibus cap. testes 39. 2 q. 7. cap. nulli 3. q. 4. cap. ostenditur 3 q. 5. lege 3. §. lege Julia l. quaesitum 13. l. [illegible] 48. ff. de testibus et tradit plures referens Farinacius de testibus q. 56, docens idem debere observari in testamentis causae [illegible] repellendarum 13 ff. de testibus. = De infamia autem facti dicimus in causis Criminalibus [illegible] a testimonio ferendo submoveri, ut constat ex text. cap. testimonium, ubi in Criminali, et ex text. l. 3. §. lege Julia ff. de testibus S. testimonij 20. ff. Codice tit. l. 1. C. ex quibus causis infamia irrogetur. in causis Civilibus non repelluntur ex [illegible] cap. testimonium [illegible] quamvis hoc [illegible] excluderetur in causa Civili ut tradit Coll. pract. q. 7 cap. 28. n. 1. in causa in [illegible] admittuntur cap. ex parte de testibus et attestationibus, nec in Criminali Civiliter intentata cap. per tuas 32 §. tales de Simonia, nec in causa Civili ardua, quae aequiparatur causae Criminali cap. 1. de restitutione spoliatorum, quibus a matrimonialibus in aliis vero Civilibus causis licet admittantur infamia facti notati, eorum tamen dictis fides minuenda videtur, et aliquantum diminuit, ut probant textus sic intelligendi cap. licet cap. 9. de probationibus et l. 3. ff. de testibus = Denique de infamia Canonica statuimus eos notatos a testimonio ferendo repelli ex iuribus relatis, quia per peccatum mortale amittit quis Civitatem Dei et transit in familiam diaboli cap. [illegible] 31. 2 q. 1. et Concilium [illegible] in [illegible] habent [illegible] insperat. [illegible] Coll. de sponsalibus [illegible] capitulo §. fin. n. 8. =

n.º 15.

Verum hic doctrina difficultatem videtur ex sequenti Considerat. quoniam nemo absque peccato, aut Crimine Vivit cap. nisi cum pridem de renuntiat. cap. licet 4. q. 1. et [illegible] iustus cap. testes[27] ac [illegible] dist. 4. quo [illegible] idoneus testis inveniretur, ac [illegible] veritas inquiramus [illegible] infamiam Canonicam, hoc est peccatum a testimonio ferendo testes repelli debere. = Ut hanc difficultatem dissolvant multi [illegible] = tenens dicunt [illegible] doctrinam intelligi de infamia Canonica resultante ex crimine, vel peccato mortali, quod in foro Contentioso puniretur, si accusatum fuerit, quod [illegible], [illegible] cap. Consuetudinem et ex cap. testimonij [illegible] aliquo ex [illegible] tradit [illegible] 2. p. [illegible] Moralis 86. [illegible] 94. = Sed his aliisque solutionibus omissis hic difficultas [illegible], et faciliter dissolvetur, si discrimen adhibeamus inter peccata occulta et transeuntia, et peccata permanentia, et iterata in quibus [illegible]; quippe occulta, et quae probari non possunt, minime repellunt testem a testificando, quoniam [illegible], [illegible] l. duo si [illegible] ff. de testamentaria tutela, e contra [illegible] peccata [illegible], et permanentia testes a testimonio repellunt, et [illegible] doctrina [illegible] edocens peccatis resultans ex infamia Canonica sufficere ad repulsam testium, quod [illegible] velatis et [illegible] 16. [illegible] 3. [illegible] Gregorius [illegible] fin. =

n.º 16.

Ex [illegible] provenit [illegible] Conscientiae, et [illegible] peccati [illegible] testibus Crimina [illegible] occulta [illegible] illa revelare, [illegible] repellendo eos a testimonio, ut [illegible] de quibus alternis [illegible] fuerant accusati; [illegible] quia ad [illegible] de [illegible] quae [illegible] Competenti, [illegible] cap. [illegible] 31. [illegible] nullus [illegible] ff. de [illegible] de [illegible] permittit [illegible] cap. [illegible] liberis [illegible] liberis [illegible] [illegible] [illegible]

[illegible]

quam inquirendum obiiciuntur exceptiones testibus ut docet Azevedo in lege 52 n.º 67. tit. 6. lib. 4 recopilationis, [illegible] actione iniuriarum teneatur litigator, qui crimen testi reprobando obiicit, nec illud plene probavit, nisi modo excepti[onem] opponendo fidem testis [illegible] Vel [illegible], dummodo simpliciter probavit, vel illius quelibet attulerit, aut [illegible] famam, et rumorem ostendens, [illegible] iniuriis [illegible] l. [illegible] ff. de iniuriis, nec in iuria committitur [illegible] l. [illegible] §. 1.º ff. [illegible]. [illegible] qui crimen obiicit testi, dummodo agit de illo refutando ut se liberet ab adversario [illegible] Cod. de [illegible] l. [illegible] 55. ff. de furtis, in dictis [illegible] Collantes [illegible] Var. cap. 9 n.º 12 [illegible] ff. [illegible] =

n.º 17.

[illegible] in [illegible] repellendi [illegible] probare exceptionem testes [illegible] 9. 2. q. 7. cap. nulli 3 q. 4. cap. [illegible] 9. 3 q. 5. l. 3. ff. de testibus [illegible] l. 8. tit. 16. p. 3. [illegible], quia sicut honestate vitae testis fides commendatur, ita vitae turpitudine maculatur, [illegible] cap. de testibus [illegible] et [illegible] fundamentum testimonii sit fides testis cap. [illegible] de [illegible] infamis fide caret siquidem habet [illegible] et [illegible] l. [illegible] §. ff. de variis, et extraordinariis cognitionibus; [illegible] proferre testimonium honor, et dignitas est cap. [illegible] 3. 2 q. 5. ab honoribus autem et dignitatibus infames [illegible] [illegible] de R. I. [illegible]. [illegible] accusando cap. [illegible] 2 q. 5. l. [illegible] de 8. ff. de accusationibus, et a postulando l. 1. §.º removet, et §. ait Praetor ff. de postulando, [illegible] l. 2. ff. de [illegible] et [illegible] l. unica C. de infamibus lib. 10. l. 2. C. de [illegible] lib. 12. [illegible] quod [illegible] si frater [illegible] sit, l. [illegible][27] C. [illegible] officiis [illegible] qui [illegible] Mascardus de probationibus [illegible] n.º 1356, Farinacius [illegible] q. 56. n.º 26, et Antonius Gomez [illegible] 3. Var. cap. 12 n.º 15. [illegible] infames [illegible] ex doctrina [illegible] Augustini [illegible] 3. 37. q. 33. [illegible] infames [illegible] Oby [illegible] quibus aliquis infamis appellatur, nisi [illegible] ut in exemplum [illegible] [illegible] ff. de his qui notantur infamia l. [illegible] C. [illegible] l. 2. ff. de [illegible] lib. 2 [illegible] 7. =

Hinc deciditur [illegible] controversia [illegible] infamibus a Principe restitutis

n.º 18

de restit. Principis in famibus [illegible]

[illegible] infamiam, [illegible] valeant in testimonio, in qua licet varii existant scriptores, affirmans concessa restitutio infamibus obstare illis exceptionis [illegible] ad testimonium perhibendum admitti [illegible], et hoc procedit sive fuerint specialiter dispen[sati] [illegible] 7 [illegible] [22] [illegible] cap. accusatus §. licet de hereticis lib. 6. [illegible] tradunt [illegible] cap. testimonium, Menochius lib. 2. de arbitrariis q. 27. n.º 7. et Mascardus de probationibus [illegible] n.º 73. sive [illegible] generaliter restitutus sit, et [illegible] certissima ratio, quia per restitutionem [illegible] l. 3. ff. de testibus [illegible] l. 1. §. deinde, et §. de [illegible] ff. de postulando l. 1. C. de [illegible] docent Farinacius [illegible] q. 56. n.º 79. et Covarrubias lib. 28. [illegible] litt. 9. = [illegible] sola [illegible] venia a Principe concessa [illegible], infamia [illegible] l. ult. C. de generali abolitione [illegible] [illegible] = [illegible] facit [illegible] ult. §. [illegible] C. [illegible] deportatus [illegible] fuit, in sola indulgentia, aut venia [illegible] ut declarant [illegible] contraria colligitur, in quo tractatur de [illegible] indulgentia [illegible] a Principe [illegible] [illegible] l. [illegible] ff. [illegible] §. 1.º ff. de [illegible] = [illegible] hoc a infer[illegible] in [illegible] indulgentia aut restitutionis, [illegible] infamia [illegible] Principe [illegible]

de infamia testium superveniente post testimonium dictum [illegible]

est, cap. 1. qui sint [illegible] [illegible] tradunt Covarruvias [illegible] Mascardus et Farinacius [illegible] =

n.º 19.

[illegible] testibus exceptio infamiae aut Criminis [illegible] superveniens post illius testimonium, tum si [illegible] testis [illegible] 4.º [illegible]. [illegible] quod [illegible] infamiam, aut Crimen, quod post testimonium supervenerit, fides testis [illegible], quippe quod [illegible] est, [illegible] [illegible] [illegible] [illegible] testis. et haec doctrina procedit quoad post [illegible] et depositionem testes in infamiam, aut Crimen inciderit, [illegible] infamiae aut Criminis fiant post [illegible] facti, et ante exhibitas depositiones, repelli potest exceptione infamiae aut Criminis, quoniam quoad [illegible] depositio retrotrahitur ad tempus [illegible], tempusque depositionis inspiciendum est ad [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Speculator [illegible] de teste § 1. n. 27. Farinacius et Mascardus [illegible] [illegible] [illegible] huic doctrinae [illegible] quod [illegible] exceptio per iudicem repulsa fuerit, recte ab eo appellatur cap. [illegible] 7.º de testibus, [illegible] [illegible] Sicut appellari potest a iudice exceptiones peremptorias rejiciente cap. [illegible] 67. de appellationibus, [illegible] [illegible] appellationi [illegible] auxilium [illegible] [illegible] [illegible] [illegible], cum [illegible] appellare liceat etiam ab interlocutoria. = [illegible] [illegible] minoris [illegible] [illegible] [illegible], [illegible] [illegible] in iudice [illegible] minor, Cum [illegible] denegatur de facto. = Haec [illegible] procedit Cum exceptio Criminis, aut infamiae opponitur in iudiciis Ordinariis, [illegible] [illegible] [illegible] testes [illegible], [illegible] exceptio [illegible] Servanda [illegible] iudiciis plenariis, et Ordinariis, [illegible] illa [illegible] [illegible] [illegible] tradit [illegible] practica [illegible] cap. 27. [illegible] [illegible] 2. tit. 8. [illegible] recopilatae [illegible] [illegible] [illegible] =

n.º 20.

Denique animadvertimus aliquot specialia Crimina, [illegible], [illegible] [illegible] gravitatis, et detestationis [illegible] remaneant, recepti ut admittantur [illegible] [illegible] alibi [illegible] [illegible] notata. Crimina autem excepta [illegible] 1.º [illegible] cap. [illegible] de haereticis, cap. [illegible] [illegible] cap. [illegible] [illegible] Haereticus. 2.º Simonia cap. [illegible] de Simonia. 3.º Crimen [illegible] [illegible] [illegible] [illegible] ff. ad [illegible] maiestatis. 4.º Crimen perduellionis l. ult. ff. [illegible] 5.º Crimen [illegible] [illegible] 6.º Crimen [illegible] [illegible] 7.º [illegible] [illegible] [illegible] cap. 7. qui [illegible] [illegible] [illegible] 8.º [illegible] cap. 27. § 4. docent Speculator [illegible] de accusatore § 1. n.º 37. [illegible] [illegible] 2. de arbitrariis q. 27. n.º 7. Mascardus, et Farinacius ubi [illegible] docentes in [illegible] [illegible] [illegible] testes [illegible] [illegible] [illegible], nec omnino [illegible] haberi fidem. Cum doctrina [illegible] ut nisi aliis [illegible] testibus [illegible] probatio adminiculetur, poena Ordinaria aliqualiter temperari debet, [illegible]. Extra hos autem Casus [illegible] [illegible] Criminosi et infames [illegible] admitti [illegible] debeant, [illegible] fuerint examinati, vel [illegible] [illegible] [illegible] [illegible] [illegible] ut procedatur ad inquisitionem generalem, Vel [illegible] specialem, ut post alios tradit Antonius Gomez tom. 3. Var. cap. 12. n.º 40, sed [illegible] [illegible] [illegible] [illegible], [illegible] [illegible] [illegible] Farinacius q. 66. n.º 67. at [illegible] [illegible] [illegible], quamquam [illegible] defendere [illegible] alii [illegible] Farinacius [illegible] n.º 67. [illegible]. =

n.º 21.

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] depositiones testium, quorum Crimina fuerint [illegible] [illegible] per acceptationem, [illegible] per exceptionem repellantur, [illegible] [illegible] infames, Criminosi, [illegible] [illegible] [illegible] ad testimonium dicendum non admitti, quoniam [illegible] [illegible] ad [illegible] [illegible] [illegible] cap. [illegible] 7. de testibus L. [illegible] 29. ff. de probationibus [illegible] tradit Cobb. [illegible] 2. Var. cap. 1. [illegible] 7. quorum [illegible] pars, et [illegible] [illegible] [illegible] [illegible] depositionibus [illegible] l. [illegible] de testibus, [illegible] [illegible] [illegible], Vel [illegible] [illegible] [illegible] cap. [illegible] cap. [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible]

Vita, honor, et facultates, qui in judiciis [illegible] deducuntur, [illegible] decernendis [illegible] [illegible] [illegible] ad [illegible] rei, sed ut juridice deponi [illegible] debeat videre attendere [illegible] judicat. [illegible] [illegible] §. [illegible] officium [illegible] Coll. [illegible] [illegible]. Quapropter ad testificandum admiserunt [illegible] [illegible] homines quorum fides in [illegible] [illegible] de testibus, [illegible] l. 1. ff. [illegible] [illegible] debet ex illius persona, cui [illegible] veritatis assistat, cap. licet [illegible] 9. de probationibus, criminosos, et [illegible] [illegible] homines testimonii, ut [illegible] [illegible] potius rejiciendos esse, [illegible] cum [illegible] homine [illegible] [illegible] [illegible] [illegible] [illegible] et quoniam [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] maculare ut [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] testes [illegible] [illegible] [illegible], crimine [illegible] vel macula requirunt. =

n.o 22.

Secunda [illegible] [illegible] [illegible], quod [illegible] [illegible] objiciuntur testibus crimina, de quibus [illegible] [illegible] vel [illegible] [illegible], adhuc repellantur a testimonio, ex [illegible] [illegible] [illegible] confessioni credendum, qui criminosi [illegible], nisi [illegible] [illegible] innocentes, ut [illegible] [illegible] [illegible] [illegible] l. [illegible] 19. C. de [illegible] accusare [illegible], [illegible] [illegible] [illegible] [illegible], ad testes [illegible] applicari [illegible], siquidem [illegible] de accusatoribus ad testes valet, et [illegible] [illegible], [illegible] accusator [illegible] repellitur ab accusando, multo magis a testificando, donec [illegible], vel probet innocens, [illegible] [illegible] [illegible] [illegible] [illegible] repellendi [illegible] sive [illegible] illius criminis [illegible] ut [illegible] [illegible] recepta, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] intellectus [illegible] [illegible] [illegible] [illegible] Menochius [illegible] Flaminius de resignat. benef. [illegible] 5. [illegible] n. 24, et alii plures, quos referunt [illegible] Cevallos practicarum [illegible] 396. n. 5. qui docent [illegible] doctrinam esse veram, ut testis infamis, aut criminosus [illegible] aut crimino[illegible] [illegible] ad [illegible] [illegible], qui testimonium dicere [illegible] [illegible] [illegible] doctrina [illegible] [illegible] [illegible] testibus, quorum [illegible] criminibus [illegible] [illegible] aut criminosi, [illegible] veritas, [illegible] [illegible] [illegible] deficit, [illegible] [illegible] valet [illegible] docet Bellon. [illegible] [illegible] 71. [illegible] =

n.o 23.

[illegible] et ultima [illegible] [illegible] [illegible] [illegible] [illegible] quando [illegible] si testes de crimine ad [illegible] [illegible] vel confessi [illegible], [illegible] ordinariam criminibus [illegible] [illegible] alius crimen [illegible] [illegible] principale [illegible], [illegible], quoniam sine legitimo accusatore nemo debet ordinaria [illegible] [illegible] ut [illegible] benef. sine [illegible] [illegible] cap. 1. cap. [illegible] [illegible] cap. manifesta [illegible] [illegible] [illegible] [illegible] ordinem in procedat, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] crimen exceptionis [illegible] testibus, nulla [illegible] accusatio, nec petitio ut [illegible] [illegible] ut [illegible] [illegible] repellantur [illegible] [illegible] ordinaria [illegible] [illegible] debeat, aliquam [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] ff. de rebus creditis, nec aliam extraordinariam [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] sufficit [illegible] [illegible] testium repellatur, [illegible] vel crimen [illegible] [illegible] de quo agitur, [illegible] [illegible] et [illegible] [illegible] [illegible] accusationis [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] ordinaria, [illegible] [illegible] [illegible] [illegible], [illegible] [illegible] absurdum intelleximus l. [illegible] [illegible] [illegible], absurdum [illegible] ut [illegible] sine accusatore [illegible] [illegible] legitimo modo [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] docet [illegible] [illegible] [illegible] [illegible] n. 7.

n.o 24.

[illegible] difficultates [illegible] [illegible] [illegible] [illegible] quae dicebat [illegible] repellendos [illegible] a testimonio [illegible] [illegible] publico [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] honor [illegible] [illegible] [illegible] [illegible], ac [illegible] [illegible] [illegible] [illegible] [illegible] crimine a [illegible]

19.

Dicendo testem repellendum fore. quoniam cum haec res dispositione comprehensa est tam jure Canonico, et Civile, Canonico enim cum in solum quemcumque Crimen, et quodlibet modo probatum est quia exceptiones sufficiens est ad repellendum testem a testimonio ut constat ex textu in cap. [illegible] 23. cap. testimonium 54. de testibus, atque jure Civili in quolibet delicto ad [illegible] [illegible], sed quod lege Julia, et aliis legibus si expressa, et [illegible] in judicio publico, ex [illegible] l. 3. §. lege Julia de testibus, et alia jura in marg. adducta. Dispositionis [illegible] dependet ex eo quia jus Canonicum semper [illegible] cap. ult. de [illegible] = Nec hoc dispositionem [illegible] cap. [illegible] §. lege Julia 4 q. 3. [illegible] Canonico [illegible] quia [illegible], et [illegible] in [illegible] l. 3. §. lege Julia [illegible] de testibus, [illegible] habent [illegible] Canonici, [illegible] habent [illegible], nec [illegible] decisionibus [illegible] quam [illegible] ut docent [illegible] lib. [illegible] 12. et [illegible], [illegible] Collect. ad Decretales lib. [illegible] [illegible] nec ex [illegible] sufficiat [illegible] =

n. 25.

Deinde [illegible] difficultas, quae dicebamus semel [illegible] Crimen, [illegible] [illegible] suam innocentiam probare, et [illegible] testimonii [illegible] admitti [illegible], quoniam [illegible] innocentiam [illegible] [illegible] de accusatoribus et [illegible] procederent [illegible], [illegible] probaverint se innocentes, quoniam [illegible] 37. [illegible] loquuntur de testibus, et accusatoribus, [illegible] [illegible] Julianum de [illegible], [illegible] confessionem [illegible] se innocentem probare, [illegible] cap. extenore, de testibus et [illegible] [illegible] pro[illegible] [illegible] diverso loco [illegible] cap. [illegible] de accusationibus, §. 2. [illegible] de confessis [illegible] confessionem [illegible] [illegible] confessionem erroneam, [illegible] cap. [illegible] C. de [illegible] cap. [illegible] 12. de [illegible] cap. extenore [illegible] [illegible] =

n. 26.

Rursus [illegible] difficultas deducta ex [illegible] cap. [illegible] Super de confessis, [illegible] Ordinarius Canonicus [illegible] ordinariam in Criminalibus [illegible] Canonicus et monachus, [illegible] principale, [illegible] et [illegible] deducta. [illegible] cap. [illegible] 3. de [illegible] Crimine Conjugicidii [illegible], ut Constat [illegible] Decretalis, et [illegible] in cap. [illegible] 4. [illegible] = Qualis solutionis [illegible] difficultas in cap. [illegible] 26 [illegible] [illegible] Confessionem [illegible], [illegible] quoniam

tale

[illegible] principale, et [illegible] demonstratur, quia [illegible] fuerat [illegible] Condemnatus [illegible] principaliter [illegible] Commiserat judicibus ut generaliter inquirerent [illegible] [illegible]

n.° 27

Denique [illegible] ultima difficultas [illegible] probationis facultatem [illegible] personis de quibus [illegible] repelleremur a testimonio dicendo [illegible] Veritas [illegible] [illegible] Crimina [illegible] a testimonio repellendos [illegible] [illegible] = Nec [illegible] ff de [illegible], L. qui [illegible] ff de re militari, L. qui [illegible] ff de [illegible] [illegible] Crimine [illegible] a testimonio [illegible] a testimonio dicendo [illegible] = Vel [illegible] facultatem [illegible] a testimonio [illegible] =

n.° 28.

Ex his omnibus [illegible] decreta [illegible] Crimine [illegible] debere ante publicationem attestationum [illegible] = Ut haec difficultas dissolvatur [illegible] [illegible] Crimine [illegible] = [illegible]

n.° 29

Quae [illegible] [illegible] termino [illegible] testes [illegible] [illegible] post publicationem [illegible]

Quo termino nequaquam ~~teneatur~~ [obstringitur] per se dispositiones ut intra illum teneatur exceptiones probare = [illegible] licet [illegible] observarentur, [illegible] [illegible] publicationem testium [illegible] exceptiones in loco personarum [illegible] [illegible], et hoc [illegible] [illegible] ley. 1. tit. 8. lib. 4. recopilationis. Quod quidem fieri debet in libello, quo [illegible] gravamina exprimuntur [illegible] [illegible]. ad probationem exceptionum terminus assignandus [illegible] [illegible], qui quidem [illegible] debet excedere medietatem termini assignati ad probationem causae principalis, nec minori [illegible] privilegiato [illegible] [illegible] temporis [illegible] [illegible] legis recopilationis [illegible] [illegible] [illegible] [illegible]. Castillo [illegible] lib. [illegible] [illegible] 9. n. 7. Cobarr. pract. [illegible] 97. cap. 20. n. 5. et alii plures quos refert et sequitur Balboa in repetitione [illegible] [illegible] =

n.º 30.

Secundo [illegible] [illegible] [illegible] cap. [illegible] 6. n.º Licet autem [illegible] de exceptionibus, quo [illegible] excepti [illegible] testis, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] post [illegible] [illegible] [illegible] [illegible] [illegible] cap. [illegible] post hoc, [illegible] quae [illegible] Cornelius de Fellinis, [illegible] [illegible] debet probari [illegible] [illegible] exceptio [illegible] [illegible] [illegible] testes [illegible] [illegible] [illegible] a testimonio [illegible] = [illegible] difficultas [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] cap. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] testes [illegible] [illegible] [illegible] [illegible] in ley. 1. C. [illegible] lib. 16. tit. 26. [illegible] [illegible] [illegible] de exceptionibus [illegible] [illegible] personae testis, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] testibus [illegible] testis [illegible] [illegible] [illegible] [illegible] [illegible] 4. et 7. [illegible] [illegible] [illegible] [illegible] [illegible] denique [illegible] [illegible] personae testis, [illegible] [illegible] [illegible] de exceptionibus [illegible] [illegible] testium, [illegible] [illegible] [illegible] [illegible] exceptiones [illegible] personae testis [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] de exceptionibus [illegible] [illegible] testium, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] resolutionum cap. [illegible] n. 2. [illegible] [illegible] =

n.º 31.

[illegible] [illegible] [illegible] et Pontificis Adriani decretum [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] sacerdotes [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] ab Alex. Papa [illegible] [illegible] [illegible] 3. [illegible] 4. [illegible] [illegible] [illegible] [illegible] [illegible] humanis, vel divinis [illegible] mortui [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] macula [illegible] mortua [illegible] [illegible] [illegible] Pauli ad Timotheum cap. 5 vers. 6. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Mathei cap. 8. vers. 22 [illegible] [illegible] [illegible] [illegible] [illegible] mortuos [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] difficultas [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] =

Marginal notes: Folio 12. — [illegible] — [illegible] [illegible] [illegible]

[illegible] Authoritates nullo difficultas [illegible], [illegible] Vocem [illegible] [illegible], [illegible] [illegible] in fine; [illegible] in cap. [illegible] [illegible] 2. g. 5. [illegible] quia [illegible] [illegible], [illegible] [illegible] [illegible] potius [illegible] [illegible] [illegible] [illegible], ut elegan[ter] [illegible] Cardinalis [illegible] in d. cap. [illegible] [illegible] cap. [illegible] [illegible] 1. [illegible] =

n.° 32

[illegible] [illegible] decidendi [illegible] [illegible] [illegible] [illegible] Hadriani Pontificis [illegible] authoritas relata in cap. qui Crimina 6. [illegible] testes 6. q. 1. [illegible] testes [illegible] [illegible] quae [illegible] infamia et filios habentes, et [illegible] [illegible]. [illegible] [illegible] aperte denotant [illegible] qualitates, et [illegible] [illegible] [illegible] [illegible] requiri, et [illegible] debere, [illegible] [illegible] [illegible] [illegible], [illegible] [illegible] [illegible] filios habeat [illegible] [illegible], [illegible] [illegible] [illegible] qualitates [illegible] omissis, et [illegible] [illegible] [illegible], Criminum [illegible] [illegible] [illegible] [illegible] [illegible] macula [illegible]. [illegible] cultus [illegible] [illegible] [illegible], quia quamvis Coniugium [illegible] honestum [illegible] laudabile cap. [illegible] [illegible] [illegible] d. cap. qui [illegible] g. 15. q. 5. [illegible] Virginitas Castitas, et Continentia [illegible] [illegible] [illegible], [illegible] [illegible] [illegible] [illegible] 7. q. 1. cap. finali 32 q. ult. Concilio Trid. [illegible] 24 de matrimonio can. 10, [illegible] Doctrina [illegible] [illegible] [illegible] 9. 252 art. 4. [illegible] [illegible] [illegible], Virgines [illegible] [illegible] cap. [illegible] 32. q. 1. [illegible] Virginitas [illegible] [illegible] cap. [illegible] [illegible] [illegible] Vidui [illegible] [illegible], cap. [illegible] 32 q. 1. [illegible] [illegible] qualitates [illegible] [illegible]. = [illegible] [illegible] ut [illegible] [illegible], [illegible] [illegible] [illegible]. Cardinalis [illegible] [illegible] in cap. qui Crimina [illegible] [illegible] illa [illegible] Uxorem, et filios habentes, [illegible] [illegible], [illegible] [illegible] [illegible] [illegible] [illegible], testes [illegible] [illegible] [illegible] Uxorem, et filios habentes [illegible] infamia, [illegible] [illegible] [illegible] uxorem, et filios, ut [illegible] [illegible] infamiam incurrant [illegible] [illegible] [illegible] famosus [illegible] [illegible] [illegible] in cap. [illegible] 20. 8. q. 4. [illegible] filiorum [illegible] [illegible] [illegible] [illegible] cap. [illegible] [illegible] [illegible] [illegible] [illegible], quoniam [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]. =

n.° 33.

Alii [illegible] [illegible] [illegible] [illegible] Uxorem, et filios habentes, [illegible] [illegible] [illegible] [illegible] [illegible], quo [illegible] Uxorem, ut [illegible] [illegible] testes [illegible] habentes uxores, et filios, [illegible] infamia [illegible] [illegible] [illegible] testes [illegible], [illegible] testimonium admitti = Alii [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Uxores [illegible] [illegible] [illegible] [illegible], [illegible] [illegible] [illegible], Vel [illegible], qui [illegible] [illegible] in cap. [illegible] [illegible] cap. [illegible] [illegible] [illegible] 3. q. 5. cap. [illegible] 5. q. 5. Velut [illegible] [illegible] a testimonio arcentur cap. [illegible] 3. q. 5. cap. [illegible] 6. q. 1. [illegible], [illegible] [illegible] [illegible] [illegible] Civili in [illegible] [illegible] 3. 74 [illegible] [illegible] = Alii dicunt [illegible] [illegible] significari habere Uxorem, et filios legitima, [illegible] illi qui legitima [illegible] [illegible], Vel [illegible] [illegible] Coniugali [illegible] [illegible], Vel [illegible] [illegible] [illegible] [illegible] [illegible] [illegible], [illegible] [illegible] [illegible] [illegible], quia infames [illegible] cap. [illegible] 3. q. 4. = Alii affirmant [illegible] [illegible] [illegible] [illegible] excluderetur a testimonio Solemniter [illegible], [illegible] [illegible] publica, et Solemni [illegible] [illegible] [illegible] testes [illegible] consequenter [illegible] cap. infames cap. quicunque [illegible] [illegible] [illegible], propterea quod publica et Solemnis [illegible] [illegible], nisi [illegible] gravissimum Crimen [illegible] [illegible] [illegible] cap. [illegible] 6. 8. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] cap. [illegible] [illegible] cap. [illegible] 5. 33. [illegible] quae nupserant [illegible] prohibebantur [illegible] [illegible] [illegible] [illegible] [illegible] Tolet. 4. can. 54. [illegible] cap. admonere 3. [illegible], cap. [illegible] 12. [illegible] [illegible] [illegible] [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 12. [illegible] [illegible] [illegible] [illegible] 10. [illegible] cap. 14. [illegible] [illegible] =

n.° 34.

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Veritate [illegible], [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Uxores et filios habentes [illegible] [illegible], [illegible] Uxores, et filios admittentes, [illegible] [illegible], nec [illegible]. [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible]

Sectatores [illegible] nuptias, arbitrantesque [illegible] Dei, ut testatur [illegible] Clemens lib. [illegible] [illegible] cap. 8. [illegible] fuit et Marcellus [illegible] quem scripsit Tertullianus lib. 1. [illegible] Marcionis, necnon [illegible] [illegible] ut [illegible] apud [illegible], aliique patres, aliique [illegible] de controversiis [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]. Alia fuit [illegible] haeresis Priscillianistarum, [illegible] [illegible] [illegible] [illegible], de quibus meminit [illegible] 17 epist. 27. [illegible] 7. [illegible] [illegible] [illegible] damnavit Concilium Gangrense sub Sylvestro [illegible] anno domini 324. [illegible] cap. 2. [illegible] [illegible] [illegible] 90 [illegible] [illegible] [illegible] [illegible] canon [illegible] apostolorum [illegible] ad abolendas [illegible] [illegible] [illegible] tradunt [illegible] Augustinus [illegible] [illegible] lib. 11. [illegible] 30. [illegible] ad Canones 17. 97 [illegible] concilii [illegible]. [illegible] [illegible] [illegible] habent [illegible] [illegible] [illegible] [illegible] testes [illegible] uxores, [illegible] filios, [illegible] admittens, ut [illegible] [illegible] haereticos, [illegible] testes damnantes, [illegible] uxores, [illegible] filios, [illegible] [illegible], [illegible] fidem [illegible], nec docent, [illegible] testes [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] testes [illegible] [illegible] familia, uxores, et filios [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] uxores [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] haereticis [illegible]. [illegible] [illegible] [illegible], [illegible] [illegible] haereticis [illegible], [illegible] haereticis testes adducere, [illegible] [illegible] [illegible] [illegible] haereticis [illegible] testes [illegible] adducere [illegible] fides [illegible], [illegible] [illegible] haereticus [illegible] [illegible] [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] lib. 6. [illegible], [illegible] testes [illegible] [illegible] [illegible] [illegible] [illegible] haereticis [illegible] testes. = Ut hac difficultas [illegible] [illegible] [illegible] tradiderunt [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 24 [illegible] 65. [illegible] [illegible] [illegible] 462. = [illegible] [illegible] breviter [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] testes adducere [illegible] haereticos, nec [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] testes [illegible], [illegible] [illegible] [illegible] 21. C. de haereticis [illegible] [illegible] de haereticis [illegible], [illegible] [illegible] [illegible] testes [illegible] [illegible] [illegible] cap. 7. haereticus [illegible] [illegible] [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] = [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] cap. [illegible] 13. cap. [illegible] de haereticis, [illegible] [illegible] [illegible] cap. [illegible] [illegible] lib. 6. cap. [illegible] 6. [illegible] [illegible] de haereticis, lib. 2. [illegible] 8. [illegible] [illegible] [illegible] cap. [illegible] haereticis [illegible] [illegible] [illegible], quos refert, [illegible] [illegible] [illegible] lib. [illegible] 3. [illegible] 56.

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 3. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] testes adducere, [illegible] haereticis [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] C. de [illegible] [illegible] cap. 23. [illegible] [illegible] 7. [illegible] 7. cap. [illegible] [illegible] 32 [illegible] 6. = [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 4. [illegible] [illegible] [illegible] [illegible] 197 [illegible] de R. I. [illegible]

in fine ad minores Canonicos nec proprio, nec alieno nomine ad exequendum, aut ad [illegible] [illegible] comparuit [illegible] [illegible] Canonicus ex parte [illegible], [illegible] nullum [illegible] beneficium habeat [illegible]
Vel libere [illegible] dispensatione [illegible] [illegible] posteriori §. praeterea de [illegible] [illegible] de electione [illegible]
[illegible], aut alter [illegible] Principis admitti [illegible] [illegible], [illegible] [illegible] dispensatione [illegible] [illegible] dispensatio
[illegible] Principis [illegible] [illegible] ad libertatem, Vel [illegible] [illegible] admitti [illegible] ad [illegible], Vel ad beneficium [illegible]
quae [illegible] Voluntate [illegible] Capituli = Quo [illegible] Vulgari, [illegible] de [illegible] [illegible]
[illegible] ff de [illegible] [illegible], ubi [illegible] [illegible] ignorantia [illegible] Valere [illegible] [illegible], aut publicis [illegible] [illegible]
[illegible], [illegible] [illegible] [illegible] [illegible] populi [illegible] [illegible] Vel [illegible] [illegible]
docet [illegible] in collect. ad [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 57. ff de [illegible] =

n.° 37.

6.° ult. [illegible] [illegible] [illegible] profesionem [illegible], [illegible] difficultas [illegible]
[illegible] decretis [illegible] [illegible] l. [illegible] §. [illegible] ff de [illegible]. ubi [illegible] [illegible] §. 27. [illegible] qui lege [illegible]
Damnatus est ad testimonium [illegible] [illegible], quoniam [illegible] [illegible] [illegible] Vetatur, ex [illegible] [illegible] [illegible]
[illegible] damnatis [illegible], [illegible] testes ad [illegible] [illegible] [illegible] [illegible] [illegible] dicendo [illegible], [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 15. ff de [illegible], [illegible]
damnatus [illegible] testis, nec ad testimonium adhiberi potest = Ut hanc difficultatem dissolvat [illegible] [illegible] [illegible]
l. [illegible] §. [illegible], [illegible] [illegible] [illegible] n.° 6. [illegible] [illegible] [illegible] [illegible] [illegible] 6. [illegible]
n.° 1. observationum cap. 21. [illegible] [illegible] [illegible] legem, [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible], et [illegible], [illegible], [illegible] legem [illegible] testes adhiberi [illegible], [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] nec [illegible] nec [illegible]; [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Pauli in l. [illegible] 14. ff de [illegible], [illegible]
[illegible], [illegible] [illegible] [illegible], [illegible] [illegible] Vetatur, [illegible] [illegible] §. 217. [illegible]
[illegible] [illegible] 4. ff de [illegible], [illegible] docet [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible], [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] =

n.° 38.

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible], [illegible] [illegible] [illegible] et [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible], [illegible] lege Julia [illegible] [illegible], [illegible] [illegible] l. [illegible] [illegible] ff ad l. Juliam [illegible]
[illegible] [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] l. [illegible] [illegible] ff [illegible] [illegible]
[illegible], [illegible] [illegible], [illegible] nec [illegible] [illegible] [illegible] [illegible] 15. ff de [illegible]. [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible], [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] l. [illegible] §. [illegible]. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] l. 6. [illegible] ff [illegible] Juliam [illegible], [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible]. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible],
[illegible] [illegible] [illegible] [illegible] cap. [illegible] [illegible] [illegible]. 86. = [illegible] [illegible] [illegible]
[illegible] l. [illegible] §. 1. ff [illegible] [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] ad [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
n.° 6. [illegible] cap. 7. lit. C. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] =

n.° 39.

Pro Coronide, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible], Vel ad [illegible] [illegible] [illegible] [illegible], [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible], nec [illegible] = [illegible]

[illegible] ... l. 17. ... [illegible] ... perpetua ... [illegible] ... l. 3. ... [illegible] ... l. ord. ... Municipali l. 4. ... [illegible]

... Cum [illegible] ... ult. 45.

... [illegible] ... resoluto ... [illegible] ... de decurionibus ... [illegible] ... de praevaricatoribus ... [illegible] ... Cornelium ... [illegible] ... de exceptionibus ... [illegible]

... expositio ... [illegible] ... ad vestram utilitatem ...

Expositio ad Textum in cap. [illegible] cap. Cum inter [illegible] cap. dilecti 8. [illegible] cap. dilecti 10. cap. Si quis significaverint 11. cap. exceptionis 12 ... [illegible] ult. [illegible] de exceptionibus

In hac materia [illegible] ... exceptionis ... actore, vel de reo obiecta ... [illegible] ... exceptionem ... [illegible] ... replicat ... [illegible]

Immunitas, sicut irretitus maiori excommunicatione a fidelium consortio est separandus, et fidelibus cum ipso communicare [illegible], et si communicent, incidunt in excommunicationem minorem, quae scienter, et [illegible] communicatione [illegible] fuerit, sive ignorantia [illegible] ta quis alloquatur [illegible] excommunicato, sive illo orare, sive [illegible], in eandem incidunt minorem excommunicationem [illegible] [illegible] sufficit. cum [illegible] ignorantia ad excusationem sufficit [illegible] nihil [illegible] dicere [illegible] Greg. 77 [illegible] ignorantia excusant, [illegible] involuntarius [illegible] [illegible] [illegible] [illegible] procedit [illegible] =

n.° 2.

Ex quo primo [illegible] sequitur [illegible] non [illegible] de excommunicatione activa, vel [illegible] [illegible] excommunicat[illegible] [illegible] et fidelium [illegible], et cum ipso communicandi, [illegible] defectu [illegible] [illegible] [illegible] sicut fecerit ignoranter [illegible] cap. [illegible] 39. [illegible] cap. [illegible] Celebrat [illegible] de clerico excommunicato [illegible] cap. sicut dignum [illegible] de homicidio [illegible] cap. super [29] [illegible] cap. [illegible] fuerit [12] cap. si [illegible] [41] cap. [illegible] de sententia excommunicationis cap. [illegible] [3] [illegible] cap. [illegible] [8] [illegible] de [illegible] [illegible] de excommunicatione [illegible] cap. [illegible] excommunicatis cap. [illegible] 24. cap. [illegible] 16 cap. [illegible] [9] cap. [illegible] 32 cap. [illegible] [107] cap. [illegible] [illegible] [illegible] [14] 24 [illegible] 3. cap. 1. et 27. [illegible] de [illegible] [illegible]. 1. et [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] tit. 26. cap. [illegible] 31. cap. 8. n. 5. [illegible] cap. [illegible] [illegible] [illegible] [illegible] disp. [illegible] sect. 8, et disp. 15 sect. 2 et [illegible] Alter [illegible] tract. [illegible] disp. 15. cap. 4. [illegible] [illegible] [illegible] de excommunicat. [illegible] Moral. [illegible] 5. [illegible] cap. [illegible] [illegible] [illegible] ad [illegible] [illegible] [illegible] =

L. 4. tit. 10. [illegible]

n.° 3.

Verum [illegible] [illegible] [illegible] sequentibus dubitationibus [illegible] proponimus [illegible] [illegible] excommunicat. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] cap. excommunicat. [17] [illegible] 11. [illegible] 3. [illegible] [15] [illegible] 187 [illegible] Mathaei [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] cap. 7 [illegible] 6 [illegible] 4. [illegible] [illegible] participationis periculo ad [illegible] admittendus [illegible] =

n.° 4.

Secundo [illegible] [illegible] [illegible] qui certus est excommunicatus [illegible] [illegible] [illegible] [illegible] excommunicatos [illegible] [illegible] et a fidelium [illegible] [illegible] que excommunicatio [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] l. 2. ff. [illegible] de [illegible] [illegible] [19] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

n.° 5.

Quarto dubitandum proponitur [illegible] [illegible] quod docetur communi cum excommunicato maiori excommunicat. [illegible] [illegible] [illegible] et [illegible] [illegible] Pontificiarum [illegible] cap. [illegible] excommunicat. 17. 11. [illegible] 3. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] communicaverit [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] excommunicationem [illegible] at certus [illegible] [illegible] excommunicationem [illegible] [illegible] [illegible] [illegible] [illegible]

de [illegible]

de sententia excommunicationis cap. statuimus 3. cap. Constitutionem eodem tit. tb. cap. consult. de clerico excommunicato ministrante et alijs 7. adductis, quo autem in praedictis iuribus in recta docetur clericum excommunicatum minori, aut male a collato attendere excommunicatum maiori in currere communicando cum excommunicato maiori excommunicat. =

n.º 6.

4.ª ultima difficultas dirigitur contra quod in ult. parte n. 5. docetur quatenus asseritur omnes cum excommunicato maiori excommunicat. liberari a minori excommunicat. quod facit ignoranter et provenit [illegible], quia qui excommunicatus a maiori excommunicat. repellitur a consortio fidelium, adeo ut quod quid ab ipso gestum fuerit, et [illegible] celebratis [illegible] proprijs [illegible] dictionibus careat robore firmitatis, nec [illegible] ferre, nec [illegible] actus iudiciales exercere potest cap. ad probandum de re iudicata cap. excommunicamus 24. § credentes de hereticis cap. dilecti filij de negligentia prelatorum tb. 6. cap. si eum 12 de off. delegati eod. tit. cap. 1. de off. vicarij eodem tit. excellit similiter officere potest, et ius faciendi, et hoc generaliter et absque aliqua distinctione [illegible], quod in recte docemur [illegible] minoris excommunicationis [illegible] =

n.º 7.

His dubitationibus non obstantibus dicimus verissimam esse [illegible] sitam, cuius decisionem [illegible] et demonstrare facilius, aliqua valde utilia et necessaria animadvertendam. et [illegible] prolog. [illegible] excommunicationis [illegible] excommunicationis [illegible] in multis [illegible], sed etiam excommunicationis efficacia expositiones [illegible] et [illegible] [illegible] Matthaei cap. 18. [illegible] quodcumque ligaveris super terram erit ligatum in caelis [illegible] dispensat. sed. 22. [illegible] in [illegible] [illegible] [illegible], et [illegible] quoddam [illegible] prius [illegible] probibitus fuit ab esu ligni scientiae, et [illegible] excommunicatus [illegible] deinde [illegible] peccato [illegible] paradiso [illegible] [illegible] excommunicat. [illegible] cap. [illegible] 24. [illegible] 16. [illegible] Hebraeis [illegible] [illegible] tangere [illegible] cap. 9. [illegible] 22. [illegible] [illegible] delinquentes [illegible] excommunicati videre [illegible] Caesar [illegible] tb. 6. [illegible] de [illegible] =

Romani [illegible] excommunicationibus et alijs [illegible] fuerunt, [illegible] [illegible], sed [illegible] [illegible] et [illegible], nec [illegible], nec tecto, nec lare, nec mensa [illegible], et [illegible] [illegible] [illegible] l. 2. § 1. [illegible] [illegible] [illegible] Cobb. [illegible] tb. 6. [illegible] =

n.º 8.

Animadvertimus quod quamvis [illegible] excommunicat. [illegible] videantur multa [illegible], [illegible] excommunicat. [illegible] differt, [illegible] si [illegible] effectibus, et temporalibus [illegible] excommunicationes [illegible] quae in [illegible] excommunicat. [illegible] [illegible] [illegible] Tertullianus [illegible] Apologetico [illegible] divinae censurae [illegible] [illegible] censura, et [illegible] [illegible] [illegible] [illegible] ex [illegible] Colombari [illegible] 15. [illegible] 25. [illegible] cap. [illegible] [illegible] [illegible] arbitrio [illegible], [illegible] peccatum mortale [illegible] aliter in [illegible] [illegible] cap. [illegible] 41 [illegible] cap. [illegible] 43 [illegible] S. Lorentij [illegible] [illegible] 42. 11. [illegible] ecclesiastica [illegible] excommunicat. [illegible] cap. [illegible] 13 [illegible] 2 [illegible] [illegible] 17 [illegible] 24. [illegible]

Dissertatio excommunicationis tit. 6. et idcirco nulla alia maior poena [illegible] [illegible] ex. cap. Conspiciamus, et aliis [illegible] Nacianzenus in Orat. de [illegible] [illegible] observanda et Chrysostomus in homilia de anathem[ate] [illegible], et melius patebit ex illorum effectibus, quorum [illegible] prosequemur. =

n.° 9.

Secundo notamus diversitatem excommunicationis definiri solere ab ordinariis auctoribus, et sequens definitio vera, et recepta est, ut sit Ecclesiastica Censura, qua [illegible] fidelis separatur ab aliqua [illegible] [illegible], vel a sacramentorum receptione tantum, vel ab illa et simul a [illegible] [illegible] communione, et [illegible] fidelium. [illegible] utraque dividitur in maiorem et minorem. Maior excommunicatio est illa Ecclesiastica Censura, qua [illegible] [illegible] a sacramentorum receptione et fidelium communione. Minor vero excommunicatio est Censura Ecclesiastica, qua [illegible] a receptione tantum sacramentorum, ut [illegible] colligitur ex textu [illegible] cap. [illegible] [illegible] [illegible] [illegible] [illegible] a communione fidelium sit exclusus, [illegible] tantum a sacramentorum participatione [illegible], cap. nuper, 29. cap. [illegible] aliquando [illegible] cap. [illegible] [illegible] excommunicationis Cap. Cum [illegible] [illegible] 11. q. 3. [illegible] tit. 9. [illegible] tradunt autores de censuris [illegible] [illegible] [illegible] eodem tract. 2. p. c. 1. disp. [illegible], et plurimis [illegible] Coll. [illegible] cap. alma mater. 1. [illegible] n.° 4. [illegible] appellari [illegible], [illegible] Comparatam minori, [illegible] [illegible] [illegible] privatio parva [illegible] [illegible] [illegible] ut tradit [illegible] [illegible] 22. q. 2. art. 2. [illegible] multo graviorem, [illegible] [illegible] excommunicationis maioris ut docent [illegible] Alexius in tract. de censuris [illegible] disp. [illegible] cap. 6. et alii plures, quos refert, et sequitur [illegible] [illegible] [illegible] tit. 31. cap. [illegible] n.° 9. ubi plura [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible], [illegible] [illegible] ut ad propositum accedamus, [illegible] animadvertimus [illegible]. =

n.° 10.

Tertio quatenus diximus excommunicationis maioris [illegible] [illegible] observandum quod anathema est Censura Ecclesiastica, et [illegible] [illegible] maiorem excommunicationem, ut probatur ex textu in cap. [illegible] ubi dicitur [illegible] [illegible] excommunicatus, qui a [illegible] [illegible] separat, [illegible] anathema [illegible] [illegible] fuisse, et [illegible] ex textu in cap. [illegible] de [illegible], ubi Clericus in furto, homicidio, vel alio crimine deprehensus, [illegible] [illegible] [illegible] [illegible] fuerit, debet excommunicari, et [illegible] [illegible], [illegible] [illegible] [illegible] [illegible] maior [illegible] [illegible] [illegible] anathema [illegible] [illegible]. = Ut haec [illegible] [illegible] dissolvamus, et [illegible] explicemus, supponimus hanc vocem anathema, quae in Hebraea, et Graeca [illegible] [illegible] [illegible], et [illegible], ut [illegible] [illegible] tit. 4. [illegible] [illegible] c. 4. [illegible] [illegible] significat [illegible] a Caietano [illegible] ad Romanos c. 9. [illegible] [illegible] [illegible] significare [illegible] separatus a fidelium consortio, et ab Ecclesiae communione [illegible] [illegible] cap. [illegible] 24. q. 3. et ex [illegible] Greg.° tit. [illegible] 4. et Chrysostomo homilia 6. in [illegible] ad Romanos [illegible] [illegible] anathema a Deo separari, et tradi Daemoni, quare dicamus excommunicationem maiorem [illegible] [illegible] anathema [illegible] [illegible], si quidem [illegible] excommunicatus maiori excommunicatione a Deo [illegible], et [illegible], et fidelium communione [illegible] [illegible], [illegible] plerumque anathema accipitur pro excommunicatione maiori cap. [illegible] [illegible] [illegible] [illegible] 11. q. 3. [illegible] tradit Bellarminus tit. 6. de Ecclesia militante [illegible]. =

n.° 11.

[illegible] dicimus [illegible] cap. [illegible] 9. q. 4. et [illegible] cap. [illegible] [illegible] [illegible] loqui de excommunicatione maiori, et anathemate, [illegible] licet [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] accidentaliter quod attinet ad solemnitates, et ceremonias, et publicam populi declarationem, nam anathema addit excommunicationi publicas et solemnes ceremonias [illegible] ad maiorem excommunicati terrorem et [illegible] [illegible] ut constat ex textu in cap. debent 11. q. 3. [illegible] tit. 9. [illegible] 2. et docent Suarez de censuris disp. [illegible] 9. [illegible] [illegible] [illegible] eodem tract. de censuris [illegible] cap. 29. [illegible] hoc nomine [illegible] [illegible] [illegible] [illegible], et [illegible] [illegible], [illegible], ut animadvertit [illegible] Alvarus tit. [illegible] de [illegible] [illegible]

quod [illegible] dicitur in d. cap. finali nihil aliud esse [illegible] Expeltrudam in solo fuisse excommunicatione maiori ligatam, et [illegible] crescente contumacia anathemate percussam, ac illa adhibitis fuisse publicas illas [illegible] praecationes quae olim observabantur, [illegible] vera [illegible] interpretatio; [illegible] euanet [illegible] duplex excommunicatio minor, scilicet et maior, ut [illegible] diximus, nec necesse fore [illegible] ad [illegible], ut dicerent olim [illegible] fuisse modum excommunicationis minoris, per quam excommunicati separabantur a fidelium conversatione, [illegible] a [illegible] ecclesia, [illegible] et [illegible] post maiorem excommunicationem [illegible] fuisse anathemate, [illegible] externo illo [illegible] maiori [illegible], ut alias [illegible] d. cap. [illegible] de [illegible] intelligendus et interpretandus. =

n.° 12

Atque [illegible] doctrina, et intelligentia, [illegible] et [illegible] existimant [illegible]. Nam si excommunicatio maior [illegible] differret ab anathemate, illud est certum [illegible] proferri [illegible] catholico; at Imperatores Romani [illegible] anathemate, ut [illegible] C. de summa Trinit. et fide catholica, [illegible] excommunicationis maioris [illegible]. = Atque difficultas [illegible] et [illegible] dissolvitur, [illegible] interpretatur [illegible] Imperatoris [illegible] l. 9. [illegible] [illegible] hoc displicet [illegible] nequaquam [illegible] Theodosii. = [illegible] quod Imperatores [illegible], ex [illegible] habentur [illegible] d. [illegible] = [illegible] Imperatoris [illegible] l. 9. [illegible] anathemate [illegible] [illegible] quidem difficultas [illegible] et hoc modo [illegible] interpretandum est [illegible] C. de Haereticis, quoniam [illegible] infert excommunicationis [illegible] [illegible], [illegible] excommunicat. [illegible] Romanae, ut docet Suarez tom. 4. [illegible] c. [illegible]. =

n.° 13

4.° [illegible] excommunicationis [illegible] in temporalibus, [illegible] in spiritualibus [illegible] excommunicato maiori excommunicatio. Colloquium habere [illegible] cap. excommunicatorum 17. [illegible] [illegible] cap. [illegible] Voluntate 54. de sent. excommunicationis, [illegible] ut excommunicat. [illegible] cap. [illegible] 41. [illegible] de sent. excommunicat., [illegible] excommunicato [illegible] [illegible] cap. [illegible] 24. [illegible] nec solum publice [illegible] excommunicatis [illegible] [illegible] excommunicato [illegible] Nec ad [illegible] litteras mittere ex d. cap. [illegible] et [illegible] [illegible] [illegible] cap. [illegible] 27. [illegible] posset [illegible] l. [illegible] [illegible] l. [illegible] 57 [illegible] inter [illegible] et [illegible] Cardinalibus [illegible] [illegible] locum [illegible] c. [illegible] de elect. [illegible] Nec [illegible] [illegible] cap. [illegible] Clement. [illegible] et [illegible] nec [illegible] [illegible] excommunicato [illegible] excommunicationis [illegible] ut [illegible] minus possit [illegible] [illegible] humanae [illegible] cap. [illegible] illud de [illegible] excommunicato [illegible]

satisfacere, multum refert an sit publice denuntiatus, nam tunc vitandus est nec [illegible] licite admittendus, si vero excommunicatus sit occultus, et toleratus [illegible] bonum, et [illegible] potest [illegible] exercere ut [illegible] de censuris disp. 22. sect. 2. n. 5. =

n. 14. Hinc dubitari solet utrum excommunicatus possit [illegible] verbum Dei [illegible] non possit audire, et praedicare, et quamvis plures [illegible] opiniones, [illegible] affirmans licite posse [illegible] verbum Dei excommunicatus dummodo in nullo divino officio celebratur, et [illegible] excommunicatus [illegible], quod praedicatio verbi Dei non solum fuit [illegible] pro fidelibus, et [illegible], sed [illegible] ut facilius ad [illegible] trahantur, ideoque episcopus nullus prohibere debet ingredi ecclesiam Dei [illegible] [illegible] [illegible] capitulum 67. de [illegible], quamvis [illegible] communicatio [illegible] excommunicatus [illegible] [illegible] 47. [illegible] [illegible] locum non habet [illegible] communicatio ad [illegible] excommunicati [illegible] ordinatur [illegible] [illegible] 54. de [illegible] excommunicationis. [illegible] debere [illegible] [illegible] corporalis, et spiritualis, [illegible] [illegible] corporalem [illegible] excommunicatus [illegible] excommunicatus [illegible] excommunicato 11. q. 3. [illegible] [illegible] ad Corinthios [illegible] Apostoli [illegible]. [illegible] doctrina in 4. dist. 18. q. 2. art. 1. [illegible] [illegible] spirituali; ideoque quilibet [illegible] excommunicato sacris [illegible] [illegible] excommunicatus, [illegible] per [illegible] corporalem [illegible] [illegible] [illegible] spiritualis [illegible] [illegible] [illegible] de [illegible] excommunicat. [illegible] de excommunicat. disp. 4. dubio 7. n. 58. vel de censuris disp. 15. sect. 2. et [illegible] [illegible] de censuris lib. 2. disp. 10. [illegible] =

n. 15. [illegible] dubium [illegible] verbum Dei [illegible] excommunicato, [illegible] [illegible] excommunicat. [illegible] verbum Dei audire, [illegible] [illegible] [illegible] [illegible] [illegible] excommunicato sacris [illegible], [illegible] [illegible] [illegible] [illegible] permissum excommunicatus [illegible] [illegible] [illegible] [illegible], [illegible] [illegible] [illegible] necessitas [illegible] [illegible] [illegible] excommunicat. [illegible] [illegible] [illegible] [illegible] [illegible] scandalum [illegible] [illegible] procedit in excommunicato denuntiato, [illegible], [illegible] toleratur, [illegible] [illegible] [illegible] [illegible] [illegible] excommunicatus occultus [illegible] [illegible] [illegible] [illegible] [illegible] scandala [illegible] de censuris [illegible] [illegible] [illegible] lib. 1. disp. 10. [illegible] [illegible] 27. n. 35. [illegible] [illegible] occultus excommunicatus [illegible] [illegible] [illegible] [illegible] officio [illegible] [illegible] [illegible] [illegible] morali [illegible] necessitate exigente, [illegible] [illegible] fideles [illegible] [illegible] [illegible] publice denuntiatus, ut [illegible] in 4. dist. 22. q. 1. art. 4. [illegible] [illegible] [illegible] [illegible] excommunicat. [illegible], [illegible] occulto, [illegible] [illegible] [illegible] disp. 22 de excommunicat. dubio 7. q. 8. [illegible] [illegible] [illegible] [illegible] [illegible] excommunicatus [illegible] [illegible] verbi Dei [illegible]

n. 16. [illegible] de [illegible] excommunicationis [illegible] [illegible] [illegible] [illegible] [illegible] excommunicatus [illegible] [illegible] [illegible] [illegible] [illegible] excommunicato [illegible] [illegible] 34 de [illegible] excommunicato [illegible] illud de [illegible] excommunicato [illegible] [illegible] [illegible] de excommunicat. lib. [illegible] de censuris disp. [illegible] n. 1. = [illegible] [illegible] [illegible] habet [illegible] missae [illegible] [illegible]; [illegible] excommunicatus [illegible] missas celebrare [illegible] et si celebraverit, lethaliter peccat, et irregularitatem [illegible] [illegible] [illegible] [illegible] ministrante, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] sacerdotis [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] [illegible], [illegible] [illegible] [illegible], qui [illegible] [illegible] ministrare [illegible], [illegible] [illegible] [illegible] excommunicatus [illegible]

Marginal notes:

[illegible]

De [illegible]

De [illegible] [illegible]

prohibitum sit [illegible] ut docet Thomas de Lemos [illegible] disp. [illegible] sect. 2 n. 17, et Nav. in manuali cap. 22 n. 4. Et in re [illegible] defendentes [illegible], quia hoc [illegible] articulo [illegible] est necessarium [illegible] expresso [illegible] [illegible] debet [illegible] humano, quo [illegible] excommunicatis [illegible] prohibita, [illegible] consideratur [illegible] [illegible] in articulo [illegible], [illegible] est [illegible] [illegible] [illegible] et quia [illegible] [illegible] sacerdos [illegible] reducebat [illegible] [illegible] [illegible] Veronii [illegible] Valla [illegible] ut alii [illegible] [illegible] n. 18. =

Factum S.ti Hermenegildi [illegible]

Nec non movere debet factum Sancti Hermenegildi regis, et laudatum [illegible] n. 17 [illegible] qui ab Episcopo Arriano sacram Eucharistiam accipere noluit. [illegible] tradentes [illegible] ad Hermenegildi factum, qui [illegible] [illegible] tempore quo [illegible] Arriano Eucharistiam sumere recusavit, [illegible] ut [illegible] de quibus [illegible] [illegible] [illegible] [illegible] tandem quia Hermenegildus [illegible] recusavit [illegible] [illegible] accipere, ne ex manu [illegible] [illegible] sacra sumeret, [illegible] [illegible] [illegible] Hermenegildum [illegible] [illegible] quoniam [illegible] [illegible] ut [illegible] Arriano [illegible] recusaret, ut [illegible] [illegible] atque [illegible] Deo [illegible] Arriano [illegible] ut debuit, [illegible] [illegible] regulis, ut bene notat Suarez de censuris [illegible] sect. [illegible] n. 2. = Quippe [illegible] [illegible] aliquam missam dicere tenetur, [illegible] sacerdos, qui [illegible] [illegible] bonum quibus [illegible] explere, nec per hoc aliquam irregularitatem notam [illegible]. [illegible] fideles tenentur [illegible] diebus festis missam audire, et habent [illegible] [illegible] ad sacrificium [illegible] [illegible] [illegible] [illegible] Suarez de censuris [illegible] n. 1.

n. 18

de audientia [illegible]

Amplius prohibetur excommunicato [illegible] [illegible], [illegible] tali excommunicato [illegible] nullo modo [illegible] missam celebrari [illegible] [illegible] excommunicatus. [illegible] [illegible] celebraverit, mortaliter peccat [illegible] [illegible] [illegible] [illegible] [illegible] peccat [illegible] fit irregularis. [illegible] audire missam [illegible] [illegible] irregularitatem [illegible]

et similiter

[illegible] irregularitatem [illegible], quando [illegible] sacrificio missae [illegible] ut [illegible] missa celebratur [illegible] excommunicato ministrante ut docet Nav. in manuali cap. 27 n. 244 et Coll. [illegible] cap. [illegible] § 6. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] ut [illegible] celebraverit, irregularitatem [illegible] quia [illegible] celebrare [illegible]. = [illegible] excommunicati [illegible] [illegible] [illegible] missam [illegible] [illegible] divina officia [illegible] excommunicati [illegible] [illegible] [illegible] [illegible] excommunicati [illegible] [illegible] [illegible] [illegible] fideles [illegible] [illegible] [illegible]. Sacerdotes [illegible] [illegible] excommunicati [illegible] nullo modo potuerunt [illegible] [illegible] missae [illegible] [illegible] [illegible] [illegible] Marcus Alterius de censuris [illegible] cap. [illegible] =

7 n.° 21 = [illegible] [illegible] explicare, [illegible] producat excommunicatio [illegible] [illegible]
[illegible] [illegible] [illegible] ut [illegible] capitulo de Clerico excommunicato ministrante, [illegible]
simplex appellatur in capitulo [illegible] [illegible] proponitur [illegible] excommunicatio [illegible] nulla [illegible]
[illegible] excommunicato [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] ad [illegible] [illegible] n.° 19

[illegible] Animadvertimus [illegible] [illegible] excommunicatis [illegible] maiori excommunicatione [illegible] [illegible] peccato, et Censura liberi [illegible] participantes. 1.° permissa est communicatio [illegible] [illegible] excommunicato ut admoneatur, et corrigatur, ac facilius discedat a Censura, [illegible] de [illegible] excommunicato [illegible] 2.° [illegible] propriam utilitatem, [illegible] ab advocato excommunicato consilium petere possumus, et a medico [illegible] et a mercatore [illegible] [illegible], capitulo quoniam multos [illegible] 11. q. 3. 3.° permissa a [illegible] domesticorum, [illegible] [illegible] capitulo quoniam multos, et [illegible] excommunicatus [illegible] [illegible] trahitur ad [illegible] [illegible] capitulo intelleximus 7. de Judiciis, nec [illegible] permissa est quoad excommunicatos in [illegible] [illegible] super ad [illegible] [illegible] [illegible] [illegible] in Concilio [illegible] [illegible] [illegible] [illegible] [illegible] dicta permissio, [illegible] [illegible] [illegible] ut in divinis, aut in Crimine Criminoso [illegible] [illegible] cum maiori excommunicato communicare, [illegible] in humanis, quam dicunt excommunicatus [illegible] [illegible] [illegible] Sacramentorum, aut aliis divinis [illegible], [illegible] [illegible] graviter peccat, hoc [illegible] [illegible], ita ut qui [illegible], peccat mortaliter, nec in [illegible] [illegible] [illegible] Concedi [illegible] a Sacris [illegible] dispensatio, aut relaxatio, ut tradit [illegible] de Censuris [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] hoc [illegible] excommunicato prohibitum [illegible] [illegible] [illegible] [illegible] possit permittere talis [illegible], [illegible] divino [illegible] [illegible] [illegible] de [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] excommunicatis [illegible] n.° 10 [illegible] n.° 24. [illegible] de 22. q. 1. art. 4.°, [illegible] [illegible] [illegible] capitulo [illegible] [illegible] [illegible] =

n.° [illegible]

6.° et ult.° animadvertendum [illegible] exceptionem excommunicationis, qua actor excommunicatus [illegible] repellitur in quacunque parte judicii opponi posse [illegible] [illegible] capitulo [illegible] [illegible] capitulo [illegible] [illegible] de [illegible] [illegible] judicis delegati, [illegible] [illegible] judicii [illegible], [illegible] ut a judicio repellat actorem [illegible] [illegible] exemplo [illegible] personis in judicio intervenientibus [illegible] [illegible], [illegible] notarius, advocatus, [illegible] de excommunicatione actoris excipere [illegible], [illegible] reo, [illegible] judice [illegible] [illegible] repulsio, adeo ut [illegible] [illegible] [illegible] [illegible] [illegible] aliquam exceptionem dilatoriam, de exceptione [illegible] excommunicationis actoris [illegible] [illegible]; nec [illegible] [illegible], quia [illegible] [illegible] peccatum quod resultat ex communicatione [illegible] [illegible] [illegible] [illegible] capitulo [illegible] de [illegible], capitulo [illegible] [illegible] [illegible]. = Et [illegible] judice opponi [illegible] [illegible] exceptio, [illegible] [illegible] delegato, [illegible] Ecclesiastico, [illegible] [illegible] [illegible] [illegible] probanda [illegible] capitulo 1.° [illegible] [illegible] [illegible] [illegible] actoris excommunicati, aut [illegible] testes qui [illegible] [illegible] [illegible] excommunicationis [illegible] [illegible], aut [illegible] exemplum [illegible] [illegible] excommunicationis, [illegible] [illegible] [illegible] [illegible] [illegible] excommunicatio [illegible], debet probari [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] excommunicatio, [illegible] [illegible] [illegible] [illegible] excommunicationis [illegible] [illegible] [illegible] idoneis [illegible] ut [illegible] [illegible] tradit Sayrus [illegible] de Censuris [illegible] n.° 18. = Et [illegible] [illegible] debet a judice ad probandum [illegible] exceptionem [illegible] [illegible] [illegible] [illegible] capitulo 2.° [illegible] excommunicationis [illegible] [illegible] de exceptionibus, hac [illegible] [illegible], [illegible] ut [illegible] [illegible] concedatur [illegible] [illegible] [illegible] opponitur, [illegible] [illegible] [illegible], [illegible] [illegible] [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] docet [illegible] capitulo 7. n.° 11. =

n.° 22. + [illegible]

[illegible] animadvertimus [illegible] [illegible] [illegible] [illegible] [illegible] Conclusiones [illegible] [illegible], [illegible] [illegible] actores [illegible] maiori excommunicatione [illegible] [illegible] [illegible] [illegible] [illegible] repelli debere, [illegible] [illegible] in judicio [illegible] [illegible] [illegible] excommunicato [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] excommunicatio [illegible], [illegible] [illegible] [illegible] [illegible], nec [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] excommunicationis [illegible] [illegible] [illegible] [illegible], [illegible] [illegible] [illegible] [illegible] excommunicatis [illegible] [illegible] [illegible] [illegible]

[illegible] absolvere a peccatis [illegible], et [illegible] [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] de [illegible] excommunicato [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] n.° 2.° Sayrus [illegible] n.° 13. [illegible] [illegible] [illegible] [illegible] n.° 13. [illegible] =

excom.^{cato} p ordinem privatum, aut publicum cum excom.^{cato}. Id tamen absolutus, et reconciliatus fuit ab Ecclesia cap. a nobis, 2. et cap. nuper 29. cap. si vere 40. de sent. excom.^{cat.} debet que ad absolutionem candem remitti. Sanj pr. Sanchez cap. 1 de sponsalibus et c. solet vel in prima de sent. excom.^{cati} lib. 6. et aliis. = Ponit solet precepti [illegible] causa ex parte mandati [illegible] cap. nuper, cap. cum desideres, cum aliis de sent. excom.^{cati} = Accedit et illud adeo verum ut si reus, si probatur [illegible] excom.^{cat} maiori, et exceptus [illegible] alterum excom.^{cat} maiorem [illegible] quia [illegible] repellere posset ab agendo, et actor [illegible] replicat alterum excom.^{cati} semper actor excom.^{catus} a iudicio repellendus est cum [illegible] excom.^{cato}, cum incurrit, ne nova [illegible], et peccato implicatur. [illegible] provenit participans cum excom.^{cato} tantum incurrere minorem excom.^{cat} quamvis solum peccatum veniale committit, ideoque [illegible] excom.^{cat}, recipere peccat, nec [illegible] nova incurrit excom.^{cat}, et [illegible] proprium [illegible] [illegible] cap. excelent. 11. q. 3. et c. nuper de sent. excom.^{cati} [illegible] [illegible] =

n.º 23.

Vel non obstant difficultates, quas [illegible] proponimus [illegible] quia [illegible] excom.^{cato} maiori excom.^{cat} [illegible], V. [illegible], divino, [illegible] [illegible] [illegible] [illegible] [illegible] divino, [illegible] [illegible] [illegible] [illegible] participationem [illegible] [illegible] provenit [illegible] divino, [illegible] [illegible] [illegible] [illegible] = [illegible] [illegible] cum [illegible] [illegible] [illegible] [illegible] communicare [illegible] excom.^{catis}, [illegible] conversatione [illegible] [illegible] peccato [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] excom.^{cato} [illegible] [illegible] religiosum, [illegible] peccat [illegible] incurrit excom.^{cat} [illegible] =

n.º 24.

Deinde non obstat 2.^{a} difficultas de [illegible] [illegible] [illegible] excom.^{cato} [illegible] = [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] excom.^{cat} [illegible] =

Hec

n.º 25 — amoto[?]

Nec magis urget 3.ª difficultas deducta ex decisione [illegible] excommunicat. 17. 11. q. 3. quatenus ibi statuitur omnes qui excommunicato [illegible] eadem incidere excommunicatione; quia [illegible] decisio intelligenda est de eadem excommunicatione [illegible] quae privat a participatione Sacramentorum, non [illegible] in specie et quali, ut pluribus exemplis adductis tradit Soto in 4.º d. 22. q. 1. art. 4. [illegible] in d. cap. [illegible] § 3. n.º 4. = Nec obstat [illegible] in cap. [illegible] 11. q. 3. quatenus affirmat omnes [illegible] cum excommunicato pari eodem crimine teneri; quod denotare videtur eam excommunicationem majorem esse, si quidem illa [illegible] eodem crimine ad [illegible] tale peccatum [illegible] argumento [illegible] in cap. [illegible] § [illegible] d. [illegible] quoniam [illegible] illud intelligi [illegible] excommunicatione majori in judice imponente [illegible] ut [illegible] illud [illegible] subjacebunt, quod [illegible] denotat [illegible] = [illegible] quae [illegible] cum excommunicato majori excommunicatione [illegible] excommunicatione incurrere, dummodo sequentia [illegible] 1.º quod [illegible] cum excommunicato in [illegible] 2.º [illegible] excommunicato. 3.º quod [illegible] 4.º quod [illegible] communicat; 5.º quod [illegible] ex [illegible] de quibus [illegible] in cap. [illegible] 11. q. 3. [illegible] 3. [illegible] Alb. [illegible] [illegible] 1. § 3. n. 4. [illegible] n. 27. n. 96. [illegible] =

n.º 26.

Denique non obstat 4.ª [illegible] difficultas [illegible] adducta, [illegible] cap. [illegible] probandis 24. de [illegible] [illegible] communicantes cum excommunicato [illegible] excommunicatione [illegible] quoniam [illegible] generaliter [illegible] ut [illegible] quippe [illegible] simpliciter [illegible] communicatio cum excommunicato [illegible] ut [illegible] ignorantia [illegible] aut [illegible] 109. 11. q. 3. [illegible] cum excommunicato in [illegible] non habuerunt [illegible] Apostolica [illegible] perspicue [illegible] communicantes [illegible] excommunicato [illegible] dere, [illegible] ab excommunicatione [illegible] [illegible] ex [illegible] ignorantia [illegible] volunt, [illegible] excludat [illegible] procedit [illegible] 1. [illegible] q. 76. [illegible] ignorantia [illegible] excommunicatos [illegible] [illegible] decisionibus [illegible] q. 96. [illegible] 15. [illegible] n. 96. =

n.º 27

Ex his [illegible] decidenda [illegible] Part. [illegible] de [illegible] cap. ult. de [illegible] [illegible] cum [illegible] minori excommunicatione [illegible] [illegible] beneficii adquirendi [illegible] similiter [illegible] decidi [illegible] = Hanc difficultatem [illegible] celebrantes [illegible] cum [illegible] a minori excommunicatione qui [illegible] sacra [illegible] quippe [illegible] sacra [illegible] prohibeatur, [illegible] quod [illegible] recipiat, ut [illegible] qui [illegible] celebrat, [illegible] sacris [illegible] simul [illegible] sacra [illegible] [illegible] sacra [illegible] recepto [illegible] minori excommunicato. = [illegible] beneficii [illegible] adquirendi [illegible] recipiat [illegible] [illegible] prohibit. participationis sacrorum [illegible] ut excommunicatus [illegible] beneficii [illegible]

[illegible]

[illegible] Valeat non [illegible] ... receptio, [illegible] officij, in quo nec debet administrare, et simul [illegible] recipere, [illegible] ... prohibito enim exercitio alicuius actus, prohibetur [illegible], per quod [illegible] ... L. Oratio 10 ff. de sponsalibus, ideo [illegible] ... pro beneficijs ecclesiasticis [illegible] ... officiorum temporalium, [illegible] ... quid temporalitatis, [illegible] ... decernimus [illegible] ... [illegible] Tolet. in Summa lib. 1. c. 41. [illegible]

n.º 28.

2. [illegible] ... authoritas velatum [illegible] 39. [illegible] ... [illegible] ... Vita Corporali [illegible] ... Corporalis [illegible] ... [illegible] ... August. doctrina, [illegible] ... privari, [illegible] ... [illegible] ... [illegible] ... L. 3. [illegible] ... [illegible] 57. [illegible] ... [illegible] ... [illegible] ... [illegible] ... Hieronimus [illegible] ... 16. ... 24. 5. 3. [illegible] ... August. [illegible]

ff. [illegible]

n.º 29

[illegible] ... [illegible] ... [illegible] ... [illegible] ... [illegible] ... [illegible] 37 [illegible] ... [illegible] ... [illegible] ... [illegible] ... [illegible] ... [illegible] ... [illegible] ... [illegible] ff. 6. [illegible] ... [illegible] =

n.º ult.

[illegible] ... [illegible] ... [illegible] ... [illegible] ... [illegible] ... [illegible] ... [illegible] ... [illegible]

[illegible] ... num. 6 ... [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

Expositio ad textum in cap. Cum clericis 3. tit. de exceptionibus

[margin:] [illegible] proponitur.

num. 1

Tum [illegible] Marinum [illegible] auctor ad regimen [illegible] Cathedralis ecclesiae Lucanae anno domini 1198 [illegible] in [illegible] inter alia plura [illegible] praebendis vacantibus [illegible] quidam clerico Jacobo [illegible] possessionis proponit, [illegible] obiicere exceptionem pluralitatis [illegible] in decreto Concilii Lateranensis [illegible] [illegible] Jacobus [illegible] canonicus [illegible] exceptione pluralitatis [illegible] =

num. 2

[illegible] cap. [illegible] 6. de [illegible] cap. [illegible] 43. [illegible] 2. [illegible] 22 [illegible] adulterijs [illegible] cap. 6 [illegible] 142 [illegible] 8. [illegible] 43 [illegible] 7 [illegible] 92 [illegible] 8 [illegible] 49 [illegible] l. Cum pater [illegible] 54 [illegible] [illegible] 17 [illegible] Barbosa [illegible] 17 [illegible] =

num. 3

Sed licet [illegible] Barbosa de [illegible] ecclesiastico [illegible] 7. [illegible] 72 [illegible] cap. [illegible] 46 [illegible] clericus [illegible] habens plura beneficia [illegible] exceptione pluralitatis [illegible] cap. [illegible] 4 [illegible]

[illegible]

except.[illegible] per 154 [illegible] de [illegible], [illegible] [illegible] excepto Canonico repellendum, et Canonicatum [illegible] [illegible] [illegible] =

n.º 4.

Secunda difficultas descendit ex sequenti ordinatione [illegible]

[illegible] quod plura beneficia uno eodemque tempore obtineat, si [illegible] duobus [illegible] [illegible] Concilijs [illegible] da Clavijs [illegible] [illegible] 32 dist. [illegible] n.º 6. [illegible] [illegible] [illegible] adest, [illegible] ad illum [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] alienant, [illegible] [illegible] [illegible] [illegible] [illegible], [illegible] [illegible] peccatum [illegible] vocat [illegible] [illegible] 3. [illegible] 7. [illegible] 6. [illegible] Canonicatum [illegible] pluralitatis exceptionem objicientes [illegible] Jacobus [illegible] [illegible] =

n.º 5.

3.º [illegible] difficultas [illegible] [illegible] ex eo provenit, quoniam in beneficialibus [illegible] [illegible] Judex ex officio suo tenetur [illegible] de Criminibus et de exceptionibus [illegible] [illegible] ut [illegible] [illegible] [illegible] [illegible] Canonis 49. [illegible] [illegible] [illegible] de [illegible] [illegible] [illegible] [illegible] exceptionum in causa beneficiali [illegible] [illegible] beneficij ut de [illegible], [illegible] exceptio pluralitatis a Canonico [illegible] omissa, [illegible] Judex ex officio Clericum [illegible] debet repellere [illegible] Canonicatum [illegible] excludere, [illegible] [illegible] plura beneficia obtinere uno eodemque tempore [illegible] =

n.º 6.

[illegible] difficultas in [illegible] [illegible] [illegible] plura beneficia obtinens [illegible] [illegible] de pluralitate [illegible], [illegible], [illegible] repellendus [illegible]. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] pluralitas [illegible] [illegible] [illegible] Ordinaliter [illegible] Synodo Nicena [illegible] [illegible] [illegible] Clericus [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]. [illegible] [illegible] Synodi tantum [illegible] Urbem Constantinopolitanam, [illegible] Concilium Lateranense sub Alex. 3. [illegible] [illegible] [illegible] ad [illegible], prohibens [illegible] plura beneficia [illegible] [illegible] in Villis, [illegible] [illegible] Capitula [illegible] [illegible], [illegible] [illegible], [illegible] =

[illegible] aliud Lateranense Concilium Generale sub [illegible] 3.º [illegible] prohibens similiter beneficiorum pluralitatem, [illegible] [illegible] [illegible] [illegible] 28. dist. [illegible] [illegible] [illegible] dictam pluralitatem beneficiorum [illegible] Bonifacius Octavus [illegible] de Rescriptis n.º 6. [illegible] [illegible] [illegible] [illegible] [illegible] Clemens [illegible] Ordinarijs [illegible] officio judicis Ordinarij n.º 6. Clemens [illegible] de Rescriptis. Joannes 22.[illegible] [illegible] [illegible] [illegible] [illegible] Concilium Trident. [illegible] 7. de reformat. cap. 2.º [illegible] sequentibus, et [illegible] 24. de reformat. cap. 17. [illegible] [illegible] [illegible] [illegible] 15. =

n.º 7.

[illegible] [illegible] [illegible] pluralitatis [illegible] [illegible] [illegible] [illegible] Primus [illegible] Romanus [illegible], qui [illegible] in Romana [illegible] Apostolica, [illegible] [illegible] [illegible] [illegible] ex [illegible] cap. [illegible] Romana [illegible] Fide Catholica [illegible] [illegible] 18. [illegible] [illegible] filij [illegible] legitimi [illegible] 15. [illegible] 24. [illegible] [illegible] [illegible] [illegible] [illegible] dignitatibus [illegible], beneficijs [illegible] [illegible] pluralitatis [illegible] [illegible] [illegible] n.º 13. [illegible] [illegible] [illegible] beneficiorum [illegible] 2. [illegible] [illegible] Cardinales, [illegible] Romanus [illegible] [illegible] [illegible] dignitates [illegible] obtinent, [illegible] Cardinales [illegible] [illegible] [illegible]

Tinsfunt.

[illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible]

Uniformia, eiusdem generis, et instituta s. ad unum, eidem ministerio, est [illegible] incompatibilia [illegible] tates simul obtineri [illegible] arg. [illegible] cap. 1. de consuetudine lib. 6. [illegible] Clem. [illegible] de praebendis et dignita[tibus] et [illegible] ut si Cardinalatus munus sit [illegible], vel aliud simile beneficium [illegible] utrumque velit possidere sub [illegible] interdicto comprehendatur, quia Cardinalis in utroque tenetur residere, sicut quilibet alius beneficiarius ut constat ex [illegible] cap. 1. de clericis non residentibus, [illegible] Trid. sess. 23. de ref. cap. 1. [illegible] 24. c. 17 [illegible] et de Cardinalatus munere [illegible] tradit Barbosa, [illegible] Gissar da [illegible] chi [illegible] de Cardinalibus [illegible] =

N.° 8.

Comprehenduntur [illegible] dicto interdicto Patriarchae, [illegible] [illegible], vel beneficia [illegible] habere [illegible] residere tenentur ex Trid. [illegible] sess. 7. de reformatione cap. [illegible] pro [illegible] Greg. et Quintan. [illegible] loco [illegible], qui affirmant [illegible] sub eodem interdicto comprehensos Archiepiscopos, Episcopos, et alios huius qualitatis [illegible]. Necnon [illegible] res dignitates obtinentes, v. g. Decanatus, Archidiaconatus, Prioratus et alias huiusmodi, [illegible], ut [illegible] [illegible] cap. quia nulli de Clericis non residentibus, cap. sicut unire de excessibus praelatorum [illegible] Flaminius de resignatione beneficiorum lib. 3. q. 7. n.° 105. = Amplius hoc interdicto comprehendi duos Canonicatus et praebendas, [illegible] simul nequeant obtineri, cum in eo quoque residentia requiratur cap. [illegible] 13. de praebendis et dignit. [illegible] de [illegible] Trid. sess. 7. cap. 2. et sess. 24. c. 17. et hoc procedit [illegible] si Canonicatus, aut praebendas obtinere [illegible] in diversis ecclesiis Cathedralibus, vel Collegiatis, [illegible] [illegible] in diversis ecclesiis [illegible] [illegible] eodemque tempore Canonicus, et praebendarius residentiam facere; [illegible] beneficia uniformia [illegible] incompatibilia, ut [illegible] cap. 1. de consuetudine lib. 6. cap. litteras de concessione praebendarum, Clem. [illegible] praebendis et dignitatibus, [illegible] obtinere uniformia beneficia in [illegible] [illegible] ut docet [illegible] in [illegible] Clem. ult. de praeb. et dignitatibus. Si vero beneficia fuerint dissimilia, vel difformia obtineri [illegible] in [illegible] [illegible] dispensatione [illegible] ut [illegible] consuetudine [illegible] cap. 1. de consuetudine [illegible] [illegible] tradit Nicolaus Garcia de beneficiis p. 11. c. 5. n.° 299 [illegible] =

N.° 9.

Secundo [illegible] sub [illegible] interdicto prohiberi beneficia curata obtinere, [illegible] duo [illegible] [illegible] cap. de multa 28. de praeb. et dignitatibus [illegible] dispensat [illegible] [illegible] quibus [illegible] residentia [illegible] requirentibus, obtinere potestis [illegible] cap. de multa ex Trid. [illegible] relata, [illegible], adveniente [illegible], dispensatur in foro interiori [illegible] [illegible] cap. [illegible] de voto, et voti redemptione, quem sequuntur [illegible] Canonica cap. 44. et Coll. [illegible] [illegible] beneficiis [illegible] simplicibus, vel difformibus in diversis ecclesiis [illegible] dispensat, [illegible] decisio Concilii Trid. sess. 7. cap. 4. et 5. et sess. 24. cap. 17. et declarationibus Cardinalis [illegible] [illegible] dispensatus fuerit ad plura beneficia [illegible], [illegible] residere tenetur, [illegible] resolutio [illegible] debere in [illegible] [illegible] docet Nicolaus Garcia de beneficiis p. [illegible] c. 4. n.° 35[illegible], et [illegible] n.° 18. = Ex quo [illegible] licet unum beneficium simplex [illegible] residentiam, [illegible] Clericus [illegible] aliud beneficium simplex residentiam [illegible] requirere, dummodo tamen [illegible] beneficia [illegible] [illegible] observetur, si beneficia fuerint prohibita, [illegible] [illegible] [illegible] residentiam requirit, ex fundatione [illegible], vel [illegible] uniformia [illegible] tecto, et [illegible] [illegible] cap. [illegible] Consuetudine lib. 6. de uniformia beneficia [illegible] sub eodem tecto [illegible] obtineri, [illegible] dignitates, vel [illegible] Canonicatus, vel [illegible] in [illegible] ecclesia [illegible] vel [illegible] sub eodem tecto [illegible] [illegible], licet ex fundatione [illegible] residentiam [illegible], [illegible] dispensare posset, ut docet Nicolaus Garcia de beneficiis [illegible] [illegible] duas Canonicatus habere [illegible] =

(Margin, beside N.° 8:) [illegible] [illegible] 1.° [illegible] comprehensi

(Margin, beside N.° 9:) [illegible] beneficiis, [illegible] [illegible] comprehensi [illegible] =

Obiectum in processu

n.º 10

Ad. et ultimo notamus pro perfecta huius intelligentia, valde advertendum esse consistentibus in illo praedictus Canonicus Jacobus quod exceptionem pluralitatis opponebat illi, erat in possessione praedicti Canonicatus. Quamvis licet varij existant scriptores intellectus ut Anstus [illegible] tradit Caron[illegible], Philippus [illegible], et alij antiquiores [illegible], breviter, dicimus praedictum Jacobum quod praedicta pluralitatis exceptio fuit opponenda iam eadem fuisse possessionem [illegible] Clerici, et valorem in habendo praedictas exceptiones, quia Clericus nihil [illegible] decernere [illegible] poterat, sed quid facti [illegible] ut in pacifica possessione non molestaretur in qua facti versatur, cap. [illegible] 6.º in [illegible] Vacarat de facto de Concessione Prebendae, [illegible] denique [illegible] maiores, quippe [illegible] translata possessione tamen postea fuit Jacobus [illegible] in Corporalem possessionem Canonicatus ut ostendit illarum [illegible] pacifica possessione pandere, et apertius probat [illegible] velut [illegible] in [illegible] Collect. [illegible] 2. n.º 16. cap. 2.º de Apostolicis [illegible] fuit postmodum in Corporalem [illegible] possessionem [illegible] etiam [illegible] Jacobum [illegible] Canonicus [illegible] adhaerere [illegible] antiquiores voluerunt, sed potius [illegible] Cornelius [illegible] et nullus fuit [illegible] tradit [illegible] Flaminius [illegible] de resignatione beneficiorum [illegible] 10 [illegible] n.º 49. Cohe. [illegible] Variarum c. 16. per totum =

n.º 11.

Hinc descendit, et proponenda [illegible] decisione [illegible], ideo quod [illegible] a docere Canonicus exceptionem pluralitatis opponeret et Jacobus [illegible] pluralitatis [illegible] [illegible] possessionem [illegible] Canonicatus [illegible] molestabat, [illegible], ideo quod [illegible] exceptione pluralitatis executoris litterarum Apostolicarum [illegible] Jacobus in pacifica possessione Prebendae, vel Canonicatus [illegible], donec in plenario iudicio [illegible] de pluralitate quippe [illegible] locum quod [illegible] exceptionis [illegible] de ordine Cognitionum; meritoque [illegible] possessorio pluralitatis [illegible] excluderet [illegible] illam postea in plenario iudicio proponere potuit, et [illegible] ad [illegible] removendum argumento [illegible] 46. [illegible] cap. accedens [illegible] de accusat. cap. [illegible] eiusdem de Concessione Prebendae = [illegible] debet [illegible] adulterij [illegible] Cicero [illegible] Verrem, [illegible] accepta, sed nec [illegible] respondetur [illegible] Canonicus exceptionem de pluralitate [illegible] Jacobi [illegible] pluralitatis [illegible] Felinus et [illegible] =

n.º 12.

[illegible] difficultas [illegible]. Nam [illegible] pluralitas beneficiorum prohibita [illegible] Canonicus [illegible] Jacobus [illegible] Canonicatus [illegible] pluralitatis [illegible] exceptio [illegible], quippe [illegible] beneficia [illegible] cap. [illegible] de [illegible] Cognitionum [illegible] Jacobus [illegible] possessione Prebendae [illegible] molestaretur, [illegible] pluralitas [illegible] beneficium [illegible] pacificam [illegible] cap. [illegible] Concessione [illegible] 6. [illegible] 42. [illegible] = Nec [illegible] argumentum [illegible] pluralitatis exceptio opponeretur [illegible] procedit [illegible] Jacobus [illegible] molestatus [illegible] Canonicatus, exceptio [illegible] beneficiorum [illegible] 4.º =

Denique

n.° 13.

Deinde obstat 2.ª difficultas deducta ex illa consideratione, quia [illegible] Vtilitatem [illegible] duo beneficia incompatibilia habeat, et in casu [illegible] Vtilitatis [illegible] cuilibet admitti ad opponendam exceptionem, [illegible] admittendus fore Canonicus opponens pluralitatis exceptionem ex [illegible] dicens [illegible] licet in [illegible] Vtilitatis [illegible] aliis [illegible] ad excipiendum [illegible] periurii [illegible] in hoc discrimine [illegible] inter [illegible] quorum talis exceptio [illegible] ad eam opponendam [illegible] admitti [illegible] Jacobus erat [illegible] et pacifica [illegible] ad opponendam pluralitatis exceptionem, quamvis ad sit [illegible] Vtilitatem, [illegible] exceptio [illegible] impedire [illegible] seu remedii [illegible] a Jacobo [illegible]

Nec de [illegible] quia quamvis [illegible] a Jacobo, [illegible] Canonici excipere pluralitatem [illegible] per Viam [illegible] cap. [illegible] de exceptionibus [illegible] Corradus[46] [illegible] de appellationibus, tradunt [illegible] Paramid. [illegible] Tom. 11. [illegible] seqq. =

n.° 14.

Denique obstat 3.ª et Vltima difficultas [illegible] propietatis, [illegible] docetur Judices tenendi [illegible] de exceptionibus [illegible] inquirere, [illegible] fore, quamvis [illegible] Canonici [illegible] admittebantur, [illegible] breviter [illegible] dicendo [illegible] licet [illegible] ex officio suo de pluralitate inquirere debere, [illegible] exceptionibus 12 [illegible] cap. Sacerdotibus 4. [illegible] pluralitatis [illegible] per Viam exceptionis [illegible] et ideo Canonici exceptio non admittitur, quoniam pluralitas [illegible] de pluralitate beneficiorum ex rationibus et iuribus [illegible] cap. [illegible] de [illegible] Suarez [illegible] Prax. 97. cap. 10. n.° 6. Cobb. in prax. [illegible] 33. n.° 2 [illegible] et alii plures [illegible] n.° 57 [illegible] =

n.° 15

Ex his [illegible] decidendi [illegible] difficilius decurre, [illegible] cap. [illegible] 27. de exceptionibus [illegible] Canonicis [illegible] pluralitatis exceptionem [illegible] Apostolicas admitterentur, [illegible] repellendus fore, [illegible] Canonici [illegible] pluralitatis [illegible] =

[illegible] difficultatem dissolvens [illegible] cap. [illegible] de [illegible] Canonicos [illegible] pluralitatis exceptionem opponendi [illegible] Canonici. = [illegible] Canonici [illegible] in Curia, [illegible] decidendum [illegible] =

[illegible] Canonici [illegible] exceptionem [illegible] Apostolica [illegible] beneficii [illegible] cap. [illegible] de exceptionibus [illegible] Canonici [illegible] pluralitatis exceptionem [illegible] =

n.° 16

Verum quatenus dicimus [illegible] ad [illegible] cap. Si tunc adeo 17. de rescriptis [illegible] rescriptum [illegible] [illegible] facta [illegible] fuerit de beneficiis [illegible] obtentis obstare videtur difficultas [illegible] cap. [illegible] 7. de rescriptis [illegible]. [illegible] Constet [illegible] beneficii [illegible] judicari [illegible] [illegible] de primo beneficio [illegible] fierat, [illegible] illa absenti et ignoranti collata, [illegible] similiter debuit valere [illegible] rescriptum [illegible] cap. [illegible] adeo, [illegible] in beneficio vel canonicatu [illegible] de providendo [illegible] = Ut hanc difficultatem dissolvant [illegible] in cap. super litteris de rescriptis, et post hos Menochius de arbitrariis [illegible]. Casu 201. n.° [illegible]. Varias tradiderunt [illegible] = Illis [illegible] omissis magis placet dicere [illegible] de quo in [illegible] cap. [illegible] 7. [illegible] fuisse [illegible] [illegible] [illegible] facta [illegible] de [illegible] beneficio collato absenti et ignoranti, siquidem collatio facta absenti et ignoranti [illegible] [illegible] tribuit, nec [illegible] [illegible] beneficii [illegible], cap. [illegible] 17. de [illegible] et dispensationibus [illegible] [illegible] beneficii [illegible] ad [illegible] [illegible] fuit. = Nec [illegible] ad [illegible] ignorantia, [illegible] videri [illegible] scientia fieri debere [illegible] de [illegible] beneficio [illegible] [illegible] ignorantia collatum illud beneficium [illegible] [illegible] ut dicitur [illegible], nec [illegible] nec [illegible], [illegible] 27. [illegible], [illegible] [illegible] illa [illegible] cap. Si tunc adeo [illegible] ad canonicatum [illegible] beneficium [illegible] possibile ut [illegible] [illegible] colligitur. tradit [illegible] Var. [illegible] [illegible] 27 [illegible] =

n.° 17.

Secundo deducitur [illegible] ad [illegible] cap. ex litteris 3.° de [illegible] ex [illegible] colligitur [illegible] canonicatus [illegible] episcopatum obtinere, [illegible] [illegible] pluralitatis, [illegible] incompatibilitatis, de quarum [illegible], [illegible] possessione, [illegible] [illegible] [illegible] illud, [illegible] dictum est. = Quam difficultatem [illegible] [illegible] beneficio, [illegible] [illegible] [illegible] vacare, [illegible] [illegible] episcopatus, [illegible] consecratus [illegible] consecratione [illegible]. [illegible] [illegible] habeat beneficia, [illegible] [illegible] vacant beneficia [illegible] translatus, [illegible] [illegible] [illegible] [illegible] licet [illegible] qui beneficium habet, [illegible] [illegible] [illegible] ad aliam transfertur, nunc enim prior episcopatus vacat [illegible] translatus [illegible] [illegible] [illegible] [illegible] ad alium episcopatum [illegible], [illegible] [illegible], donec [illegible] = Ideo [illegible] dicimus [illegible] licet [illegible] regulariter vera sint, [illegible] [illegible] cap. ex litteris, [illegible] [illegible] simul cum canonicatu obtinere episcopatum, [illegible] juris dispositio, [illegible] [illegible] dispensat, [illegible] solet [illegible] ut alias dignitates [illegible] obtineant, [illegible] [illegible] [illegible] cap. de multa 28. de [illegible] et dignitatibus [illegible], [illegible] cap. [illegible] 54 de elect. [illegible] [illegible] cap. [illegible] dist. [illegible] [illegible] cap. [illegible] collat. [illegible] [illegible] [illegible] cap. ex litteris [illegible] [illegible], nec aliquis [illegible] difficultatem [illegible] [illegible] [illegible] =

n.° [illegible]

Ultimo [illegible] ad [illegible] cap. Ordinarii 3.° [illegible] beneficio [illegible] Ordinarii [illegible] dispensationem duo beneficia curata, vel [illegible], ab Ordinario alium [illegible] [illegible] collatio nullius momenti est, igitur plura [illegible] beneficia [illegible] vacant, [illegible] [illegible] cap. [illegible] [illegible] [illegible] [illegible] dictis [illegible] pluralitas sufficiunt ad [illegible] beneficium [illegible] obtentis vacat [illegible] = Hac [illegible] [illegible] [illegible] [illegible] [illegible] beneficii [illegible] vacare [illegible] [illegible], [illegible] difficultatem [illegible] [illegible] = [illegible] [illegible] [illegible] vacare [illegible] beneficium [illegible] [illegible] [illegible] occupatis [illegible] [illegible]

in cap. [illegible] de [illegible] et ibi [illegible]. Qui debeat melioris conditionis esse minoris, [illegible] et [illegible]
[illegible] omnis dicimus [illegible] decimo in d. cap. [illegible] statuitur, quod licet dispensatio [illegible] concedat facultatem
habendi [illegible] beneficii [illegible], [illegible] quae collatio ult. [illegible], [illegible] hoc [illegible] quamvis [illegible]
priora, tamen illud [illegible], [illegible] collatio nullius momenti est, [illegible] respectu [illegible] valor
licet [illegible] priorum beneficiorum [illegible] ut in d. cap. [illegible] dispensatio [illegible]
[illegible] cap. [illegible] de filiis presbiterorum; nec [illegible] facilius [illegible] privilegiis [illegible]
[illegible] militis 24. [illegible] militis ff. de test. militis [illegible] tradit [illegible]

: Laus Deo [illegible] cap. [illegible] :
: [illegible] :
: Dei [illegible] Virgini [illegible] gloriam :
nec non [illegible] :

Expositio ad textum in Cap. pastoralis §. Verum etc. de Exceptionibus. =

Illud [illegible] Pontificis decretum exponendum aggredior, in quo agitur de forma [illegible] [illegible] exceptionibus dilatoriis, [illegible] judicem [illegible] terminum [illegible] [illegible] [illegible]. Ex quo decreto sequens deducitur: [illegible] judex statuere debet terminum [illegible] dilatorias exceptiones proponendas, post quem exceptiones non audiet, nisi aliqua de novo emerserit, [illegible] [illegible] ad [illegible] probet [illegible] in cap. [illegible] exceptiones [illegible] de exceptionibus [illegible] 31. [illegible] in [illegible] cap. [illegible] de appellationibus [illegible] [illegible] de [illegible] exceptionibus. [illegible] L. ult. [illegible] [illegible] [illegible] [illegible] 9. [illegible] recopilationis [illegible] [illegible] [illegible] de arbitriis [illegible] [illegible] 690. [illegible] de [illegible] judiciorum [illegible] 109. [illegible] cap. [illegible] cap. 34 [illegible] [illegible] 9. [illegible] recopilat. [illegible], quos refert [illegible] [illegible] =

Sed [illegible]

n.º 2.

[illegible] cap. [illegible] 7. de [illegible] 6. [illegible] terminus est [illegible] [illegible] cap. [illegible] 22. [illegible] L. ult. C. [illegible] L. exceptionis C. de probationibus. L. [illegible] ff. de [illegible] [illegible] [illegible] judicis [illegible], [illegible] terminum [illegible] exceptiones [illegible] [illegible] =

n.º 3.

Secunda difficultas [illegible] exceptio dilatoria [illegible], [illegible] solutionis [illegible] cap. [illegible] de solutionibus, [illegible] cap. 1.º n. 4 [illegible]

Prima

[illegible] decimo. Consilio [illegible] cap. 7. [illegible], sed [illegible] exceptiones opponi post [illegible] judicatum l. [illegible] judicatum 16. ff. [illegible], et quod [illegible] est objici valet post [illegible] l. ex diverso [illegible] §. ult. ff. [illegible]. [illegible] 141. [illegible] ff. de [illegible] [illegible] certus terminus ad [illegible] a judice [illegible] exceptionis dilatoriae [illegible] exceptionem opponi [illegible] =

n.° 4.

[illegible] difficultas ex [illegible] consideratione [illegible] exceptio procuratoria dilatoria [illegible] l. [illegible] §. ult. [illegible] §. [illegible] ff. de exceptionibus. [illegible] exceptio [illegible] post [illegible] opponi [illegible] §. de procuratoribus, [illegible] procuratore speciale mandatum [illegible] mandati, l. [illegible] 4. C. de procuratoribus, l. [illegible] 9. C. de [illegible] 4. [illegible] [illegible] exceptio [illegible] =

n.° 5.

[illegible] exceptiones dilatorias [illegible] opponi debuisse [illegible] exceptionibus [illegible] lite [illegible] contestationem exceptiones dilatorias opponi [illegible] potuerunt. l. [illegible] 40. ff. de procuratoribus [illegible] ff. de [illegible] l. [illegible] C. de procuratoribus. [illegible] post [illegible] tempus [illegible] cap. 9. [illegible] C. C. quod [illegible] exceptionibus [illegible] ordinato judicio, et facta contestatione [illegible] exceptio [illegible] judicem [illegible] exceptio [illegible] exceptionum [illegible] ff. de [illegible] = [illegible] exceptiones dilatorias opponendas fuisse [illegible] tempus [illegible] post litem contestatam [illegible] Tiraquello [illegible] cap. 9. [illegible] =

n.° 6.

[illegible] Tiraquellus exceptiones dilatorias [illegible] tractare, [illegible] opponere exceptionem declinatoriam fori, [illegible] exceptionem procuratoriam [illegible] quod [illegible] exceptionibus dilatoriis [illegible] objectorum [illegible] l. [illegible] lite contestatam [illegible] exceptionem opponere dilatoriam [illegible] tempus ante [illegible] contestandae erat, [illegible] exceptiones dilatorias [illegible] tractandae, [illegible] = [illegible] exceptiones dilatoriae [illegible] ante litem contestatam [illegible] exceptiones dilatorias [illegible] [illegible] exceptione [illegible] n.° 7. =

Decimo [illegible] exceptiones dilatorias [illegible]

[illegible] exceptiones dilatorias [illegible]

[illegible] ff. 6. [illegible]

n. 7.

Secundo animadvertendum est, [illegible] terminum [illegible] ad opponendas exceptiones dilatorias [illegible] fuisse, quippe [illegible] [illegible] Conciliorum dilationi [illegible] remanebat in iudice [illegible] ad arbitrium suum prorogationem [illegible] temporis faciendi, [illegible] [illegible] novem dies ante contestationem computandos, post [illegible] [illegible] proponendas exceptiones dilatorias [illegible], sicut [illegible] post litem contestatam [illegible] l. 1. tit. 5. lib. 4. Recopilationis [illegible] procedit in causis civilibus, in criminalibus autem hic terminus restrictus [illegible] [illegible] [illegible] [illegible] l. 1. n. 7 [illegible] [illegible] [illegible] dicta lex Regia [illegible] [illegible] in capitulo [illegible] de [illegible] [illegible] [illegible] ut [illegible] [illegible] [illegible] post [illegible] [illegible] [illegible] [illegible] cap. 1. n. 10. [illegible] [illegible] [illegible] [illegible] tradunt [illegible] in [illegible] [illegible] [illegible] n. 6. [illegible] de [illegible] [illegible] et [illegible] [illegible] lib. 4. [illegible] cap. 27. [illegible] [illegible] [illegible] [illegible] lib. 4. =

n. 8.

Secundo notandum [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] ut [illegible] [illegible] [illegible] [illegible] excipiens protestatur de [illegible] exceptiones dilatorias postea opponendi, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]. Neratius [illegible] [illegible] protestatio ff. de [illegible] [illegible], dum [illegible] [illegible] specialiter exprimatur, et [illegible] [illegible] [illegible] proposita, velut si exceptionem [illegible] vel [illegible] allegare, [illegible] [illegible] exceptiones [illegible], vel [illegible] [illegible] quam [illegible] exceptionem tradere [illegible], [illegible] [illegible] [illegible] [illegible], et [illegible] exceptionem [illegible] [illegible] [illegible] [illegible] [illegible] [illegible], protestatio non sufficiet ut [illegible] [illegible] dilatoriam exceptionem [illegible] [illegible] cap. ult. de appellat. = 2°. [illegible] non procedat [illegible] exceptio [illegible] post contestationem orta fuit, quo [illegible] [illegible] post [illegible] [illegible] opponi potest, cap. [illegible] [illegible] 25. de [illegible] [illegible] l. [illegible] C. de [illegible] [illegible] [illegible], [illegible] [illegible] [illegible] quod ante contestationem non opposuit exceptionem [illegible] [illegible], [illegible] [illegible] est quod [illegible] de novo [illegible], novo [illegible] reparari auxilio l. 2. [illegible] ff. de [illegible] [illegible], [illegible] [illegible] [illegible] [illegible] non procedit in exceptione [illegible] post contestationem litis orta [illegible] [illegible] [illegible] [illegible] [illegible] l. si [illegible] [illegible] [illegible] [illegible] exceptiones dilatorias [illegible] post contestationem [illegible] [illegible] opponi debent, [illegible] non admittuntur, [illegible] [illegible] [illegible] [illegible], [illegible] [illegible] [illegible] [illegible], ut docet [illegible] [illegible] 97 [illegible] n. [illegible] [illegible] [illegible] n. [illegible]

n. 9.

3°. [illegible] [illegible] [illegible] proponenda [illegible] [illegible] [illegible] exceptio [illegible] ante contestationem [illegible] fuit, [illegible] postea [illegible] [illegible] opponenda, de quo [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible], [illegible] [illegible] [illegible] proponatur, ut docent [illegible] [illegible] [illegible] cap. 26. n. 2. et Mascardus [illegible] [illegible] 953. n. 5. = [illegible] [illegible] [illegible], [illegible] [illegible] [illegible] [illegible], [illegible] proponenda [illegible]. = [illegible] [illegible] [illegible] post terminum [illegible], [illegible] post contestationem opponere exceptionem dilatoriam, [illegible] habeat [illegible] [illegible] [illegible] [illegible], ac [illegible], ut [illegible] [illegible] exceptionem [illegible], [illegible] [illegible] [illegible] post [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] = [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] exceptionem opponere, [illegible] [illegible] [illegible], aut [illegible] [illegible] [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] ult. [illegible], et dare facultatem opponendi exceptionem dilatoriam [illegible] post litis contestationem, [illegible] [illegible] [illegible] [illegible] [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible], aut [illegible] [illegible] [illegible] auxilium [illegible] [illegible] facultatem [illegible] [illegible] [illegible] [illegible]. [illegible] [illegible] [illegible] [illegible], [illegible] [illegible] [illegible] =

n. 10.

4°. ult. [illegible] [illegible] [illegible] [illegible] solere, [illegible] exceptiones [illegible] [illegible] [illegible] opponere [illegible] [illegible], [illegible] debeat [illegible] [illegible] [illegible] [illegible] [illegible] [illegible], [illegible] [illegible]

post illum terminum, atque etiam post Contestationem objicere valerent. Quamvis aliquos moveat quod reos permittit [illegible] pluribus [illegible] defensionibus [illegible] in capitulo nullus pluribus de R. J. [illegible] quas licere post simul proponere quia contrarii [illegible] incompatibiles [illegible] ut succesive saltem easdem objiciat [illegible] aut [illegible] ei [illegible] erat, aut permittendus quod post Contestationem illas opponere valeat et licita fieri debere tradunt [illegible] Decius [illegible] 41. et Baldus in leg. 1. C. de furtis [illegible] 19 [illegible] =

Verum hoc dubio non obstante dicimus superiora [illegible], quia docet exceptiones dilatorias ante litis Contestationem tractandas esse, nec ulterius opponi posse generaliter observandum [illegible] casibus, quo [illegible] sint, quoniam [illegible] exceptiones [illegible] subsidiarie opponi posse, nec [illegible] ut notat [illegible] in leg. [illegible] Chocentius de exceptionibus, [illegible] modo objiciantur [illegible] exceptiones [illegible] contrariae essent exceptiones, nullo modo admittendae forent arg. in leg. 2 § sed si alius ff. quod appellandus [illegible] L. ult. ff. de rei vindicat. L. 4 [illegible] ff. si quadrupes pauperiem fecisse dicatur, [illegible] utrinque, [illegible] Coll. [illegible] 22 [illegible] =

n.º 11

[illegible] proponendae [illegible] decisionem [illegible] judicia [illegible] terminus ad opponendas exceptiones dilatorias, quas [illegible] dilatoriae exceptiones [illegible] prorogatione terminandae, [illegible] dilatoriae exceptiones [illegible] decisus [illegible] litis [illegible] cap. [illegible] 19 ff. de re judicata. [illegible] solet opponere exceptiones dilatorias [illegible] post alteram ut sic differant [illegible] de solvere [illegible] 19. C. de judiciis [illegible] Auth. [illegible] 24. de reformat. cap. 20. Ob quod [illegible] terminus [illegible] Judices [illegible] potuit assignare terminum, in quo [illegible] exceptiones dilatorias proponantur, nec [illegible] proponi [illegible] quibus Casset [illegible] haec decidendi [illegible] Tabula [illegible]

§. 24. [illegible] Joannes de Bolbor [illegible] =

n.º 12

[illegible] Verum dissolvimus difficultates superius [illegible]. Non igitur obstat 1.º [illegible] beneficium [illegible] exceptiones dilatorias [illegible] quoniam [illegible] terminus [illegible] ad proponendas exceptiones dilatorias [illegible] procedunt regulariter; [illegible] dilatoriae [illegible] litis [illegible] facile demonstrat sequenti exemplo. [illegible] 24 in leg. 1 [illegible] C. de [illegible] 60 vel 40 annos, [illegible] 30 annos [illegible] terminus [illegible] difficilius de delicto [illegible] proponat [illegible] C. de [illegible] in leg. [illegible] ff. [illegible] terminus [illegible] in leg. [illegible] C. de temporibus [illegible] = [illegible] C. de [illegible] Ordin. [illegible] de delictis cap. 1. n.º 17. =

n.º 13

Deinde [illegible] difficultas [illegible] quod [illegible] illam exceptionem [illegible] opponi [illegible] exceptionem [illegible] post

acceptam

post excepti[onem] judicii [et] litem contestatam opponi [et] tractari possunt, quando impingunt ordinem judicii, et [illegible], nam [illegible] resolutione effectus [illegible], de quibus [illegible] videtur exceptionem dilatoriam, cum [illegible] opponi debeat [illegible] Socci[nus] [illegible] cap. 9. [illegible] litt. 55. = Et hic resolutio est quae dubio procedit in exceptionibus [illegible] opponendis

in judicatis per quam ipsa [illegible] modificatur, nam [illegible] judicii [illegible] Scaccia

[illegible] cap. 9. [illegible] si exceptio fuerit in 1.o judicio opposita, et tractata, [illegible]

ulterius [illegible] videtur. [illegible] in cap. [illegible]

de appellationibus, [illegible], quoniam [illegible] exceptio amplius opponi non potest [illegible]

[illegible] de re judicata, [illegible] de appellationibus, [illegible]

[illegible], [illegible] l. ex diverso [illegible] [illegible]

[illegible] Bartolus [illegible] Scaccia [illegible] cap. 9. [illegible], et Petrus [illegible]

plures referens [illegible] =

n.o 44.

Denique [illegible] difficultatis [illegible] proponi [et] deduci [illegible] dilatoriae exceptionis [illegible]

adversus [illegible] doceatur [illegible], quoniam dicendum [illegible] exceptio

si procuratoris quocumque tempore obiici valeat etiam post [illegible] judicii, [illegible]

[illegible] ex defectu mandati [illegible] nullus [illegible] intelligitur [illegible]

[illegible] procurator l. licet 24. C. de procuratoribus, quoniam [illegible] persona [illegible]

[illegible] judicii [illegible] procurator [illegible] procurator. [illegible]

[illegible] exceptio procuratoris, cum [illegible] ex loco [illegible]

[illegible] 40 [illegible] de procuratoribus [illegible] C. de procuratoribus [illegible]

cum [illegible] falsitate mandati, [illegible] dilatoriis, [illegible] litem contestatam opponi

[illegible] debeant, [illegible] judicii, [illegible] quocumque tempore [illegible] judicii [illegible]

nullus [illegible] = Nec dixeris [illegible] exceptio falsi procuratoris tractari debere [illegible] litem contestatam, quando [illegible]

procuratore [illegible] mandato, aut [illegible] falso [illegible] [illegible] procuratoris [illegible] 4. [illegible]

[illegible], l. [illegible] 61. ff. de [illegible] quando [illegible] judicii [illegible] falso procuratore [illegible]

[illegible] =

n.o 45.

Ex his [illegible] [illegible]

Consilii [illegible] decretis [illegible] videtur. [illegible] difficultatem [illegible]

[illegible] in l. exceptionem C. de [illegible] exceptio dilatoria opponi [illegible]

[illegible], [illegible] postquam actor [illegible] quod [illegible], ea quibus [illegible]

[illegible] exceptio dilatoria [illegible] opponenda [illegible] postquam actor probavit [illegible]

[illegible] Hoc [illegible] valentia [illegible] Vel [illegible] Con-

[illegible] difficultatem dissolvunt [illegible] Scaccia [illegible] 22 [illegible] cap. 9. [illegible]

Cap. 9. C. de exceptionibus [illegible] [illegible]

[illegible] procedere [illegible] exceptio peremptoria, [illegible] [illegible]

[illegible] postquam actor [illegible] = [illegible]

difficultatem [illegible], [illegible] exceptio dilatoria [illegible]

actoris, vel procuratoris, [illegible] exceptio declinatoria fori, exceptio [illegible], exceptio [illegible]

mandati [illegible] falsi mandati, exceptio, quae [illegible] actor [illegible] personam [illegible]

aliasque exceptiones ipsius personam respicere, veluti exceptio praeposteri ordinis, exceptio ambigui, vel incerti libelli, exceptio quae respicit vitia citationis, aut exceptio [illegible]; aut denique alias esse exceptiones causam ipsam concernentes, veluti exceptio pacti temporalis de non petendo, aut quae ordinario ordine dilatationis [illegible] adducuntur, ut inter alios optime deducit Gaill. lib. 1. obs. 9. [illegible] 18. [illegible] 24. Oselius [illegible] cap. 9. de [illegible] D. et Colbor [illegible] 4. ubi alias species enumerat, quae ad hoc genus exceptionum referuntur. =

n.o 16. Hac distinctione supposita dicimus illas exceptiones, quae personas judicis, procuratoris, aut litis [illegible] concernunt, opponi debere, et [illegible] tractari ante litem contestatam, [illegible] procedure [illegible] ordinarie [illegible] exceptiones, quae causam respiciunt, licet [illegible] [illegible] tractare necesse non erit, donec [illegible] plene [illegible] [illegible], et de [illegible] exceptionibus dilatoriis [illegible] in l. exceptionem 19. C. de probationibus tradunt [illegible] lib. 1. obs. 9. [illegible] et Oselius [illegible] cap. 9. [illegible] quod [illegible] inter has exceptiones computandas esse eas, quae opponuntur contra libellum, quoniam sine libello [illegible] [illegible] in [illegible] de [illegible]. = Huius autem distinctionis [illegible] ratio est [illegible], nam exceptiones quae opponuntur contra judicem, aut alias personas [illegible] [illegible] impediunt [illegible] [illegible] [illegible] litis contestatae [illegible] ut [illegible] [illegible] [illegible] necesse [illegible]. Alias autem exceptiones, quae [illegible] opponuntur, veluti exceptio pacti temporalis de non petendo, et exceptio [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] de [illegible] C. de probationibus, nec [illegible] [illegible] [illegible] [illegible] probatione [illegible] [illegible] [illegible] quod idem [illegible] observari debet in exceptione [illegible], aut [illegible] libelli, quod in exceptionibus [illegible] [illegible] temporalibus [illegible] [illegible], [illegible] libello [illegible], [illegible] [illegible] [illegible] [illegible], has exceptiones [illegible] quam ordinationi [illegible] opponuntur, ut post [illegible] in d. l. exceptionem 19. C. de probat. tradunt [illegible] et Colbor [illegible] =

n.o 17. Secundo deducitur [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible], ex [illegible] [illegible] [illegible] post litem contestatam exceptiones [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] exceptiones dilatorias opponendas [illegible] [illegible] [illegible] [illegible] [illegible]. = Haec difficultas [illegible] [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] post litem contestatam exceptiones dilatorias opponi [illegible] [illegible] [illegible], quoniam [illegible] exceptio [illegible] [illegible] [illegible], de novo [illegible], et de novo [illegible] [illegible] [illegible] [illegible], [illegible] [illegible] [illegible] [illegible], [illegible] post [illegible] [illegible] exceptiones [illegible] [illegible] [illegible] [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible], et [illegible] [illegible] [illegible] [illegible] [illegible] [illegible], [illegible] [illegible] [illegible] [illegible] exceptiones post litem contestatam [illegible] = Nec [illegible] [illegible] [illegible] [illegible] [illegible], [illegible] [illegible] [illegible] l. exceptionem 19. [illegible] de [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] de novo [illegible], quoniam [illegible] [illegible] [illegible] [illegible] exceptiones [illegible] =

n.o 18. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] licet 24. C. de procuratoribus. Ubi [illegible] [illegible] exceptiones [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]; [illegible] [illegible] [illegible] exceptiones [illegible] [illegible] opponi debere [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]. = [illegible] [illegible] difficultas [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] exceptiones [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible], [illegible] docet Oselius [illegible] cap. 9. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

inter except. declinatoriam incompetentiae jurisdictionis, ordinem except. falsi procuratoris, etiam post terminum [illegible]

declinatoriam except. in judicem Conseruat. videatur, qui poterat declinare, ordinem hac except. nominatim decidi [illegible]

ut debeat tradi nominatim [illegible] in leg. ult. C. hoc eodem tit. de exceptionibus et in leg. 1. tit. 5. lib. 4 nov. [illegible]

[illegible] et Conseruatores [illegible] incompetentiae jurisdictionis tollitur, leg. 2. ff. de [illegible] et [illegible] falsus [illegible]

venit procurator, aut nullus habens mandatum qui [illegible] litigat. [illegible] facto [illegible] vitium probare [illegible]

aut defectum illum supplere, et [illegible] ratihabitionem [illegible], licet [illegible] [illegible] except. [illegible]

incompetentiae jurisdictionis quocumque tempore opponi posse, [illegible] fundat. [illegible] judicium [illegible] nullum [illegible] except.

[illegible] defectus [illegible] et [illegible] nullus effectus, quocumque tempore opponi [illegible] [illegible]

[illegible] in judicio [illegible] videatur [illegible] [illegible] [illegible] [illegible] [illegible] =

n.º 49. 4.º et ult. [illegible] ad [illegible] cap. ad dissolvend. 13. de desponsatione [illegible]

[illegible] ult. [illegible] exceptionibus [illegible] [illegible] opponendi exceptiones dilatorias [illegible]

[illegible] [illegible] litigant, [illegible] opponere [illegible] volunt, [illegible] protestatione [illegible]

except. opponere; [illegible] [illegible] aliquas voluerit [illegible], [illegible]

protestationes [illegible] [illegible]: [illegible] specialis protestatio [illegible] ad opponendas except. dilatorias [illegible]

[illegible]. = [illegible] difficultatis [illegible] solent [illegible] utrum [illegible] specialis protestatio [illegible]

dilatorias except. [illegible] admittantur transacto termino [illegible], [illegible] sufficiat generalis protestatio = [illegible]

[illegible] ad [illegible] admissionem necessaria [illegible] specialis protestatio, [illegible] [illegible]

[illegible] tradunt [illegible] n.º 17. et Coll. pract. [illegible] c.º 26. n.º 22. = [illegible] [illegible]

[illegible] cap. ad dissolvend. de desponsat. impuberum, quoniam [illegible] admitti except. dilatorias [illegible]

terminum ad illas opponendas [illegible] protestatio [illegible] ad ulteriora procedens protestatus [illegible]

[illegible] [illegible] [illegible] opponendi except. dilatorias [illegible] [illegible]

remaneat. = Nec [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] ubi [illegible] videtur generalis protestatio ad proponendas except. dilatorias admitti; [illegible]

protestatio [illegible] [illegible] [illegible] fuit proponenda, nec fuit necesse [illegible] exprimere [illegible] sufficiat [illegible]

[illegible] except., [illegible] [illegible] in protestationis favorem [illegible] [illegible], ut [illegible]

[illegible] [illegible] observatur in protestatione exceptionum, in qua [illegible] exprimi debet, [illegible] admitti [illegible]

[illegible] [illegible] [illegible] [illegible] n.º 7. [illegible] =

n.º 50 et ult. Pro [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] opponendi [illegible] except. dilatorias [illegible] [illegible] [illegible], habet [illegible] [illegible]

[illegible] peremptoriis. = [illegible] affirmans aliquas [illegible] except. peremptorias [illegible] [illegible]

aut [illegible] post [illegible] opponi, et tractari [illegible] dilatorias, aut peremptorias, [illegible] except. [illegible]

[illegible], [illegible] [illegible] [illegible] cap. 1.º de lit. contest. lib. 6. [illegible] except.

[illegible] solent appellari, quia quodammodo participant de dilatoriis, atque de peremptoriis. = [illegible] except.

[illegible] observandum est, [illegible] [illegible] necesse est [illegible] [illegible] cap. 1.º de ord.

[illegible], l. [illegible] 9. C. hoc eod. tit. de exceptionibus, [illegible] [illegible] [illegible] [illegible]

l. [illegible] 9. C. de [illegible] [illegible] l. [illegible] 8. C. hoc eod. tit. de exceptionibus, [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

in leg. [illegible] C. [illegible] [illegible] except. [illegible] pro quacumque tractari, [illegible]

[illegible], quam [illegible] postea tractari [illegible] [illegible] lib. 22. [illegible] cap. 8. [illegible]

[illegible] exceptionibus, [illegible] except. doli, [illegible] [illegible] [illegible], in judicio [illegible]

[illegible]

Exceptionibus [illegible] [illegible]. =

quando causae opponi, obstari potest, quia nullus [illegible] l. 9. ff. de rescindenda vendit. post [illegible] exceptiones
[illegible] exceptio tantummodo exceptionibus Macedoniani, et Velleiani [illegible]
[illegible] ff. ad Macedonianum, [illegible] Covarruvias [illegible]
[illegible] exceptas [illegible] opponi [illegible] post Covarruvias, probari autem debent [illegible]
[illegible] l. 1. tit. 5. lib. 4 recopilationis, [illegible]
[illegible] privilegiatas personas [illegible] de leg.

[illegible] [illegible]:

[illegible] [illegible]:

[illegible] [illegible]:

[illegible] [illegible]:

[illegible] [illegible]:

Prælectio ad text. in Cap. Qua fronte 25. de appellationibus. Lib. 2. t. 28. Scheda. 27.

[illegible] respondent per appellationes cap. [illegible]
[illegible] de appellationibus. Ideo executio [illegible] appellation-
[illegible] non suspenditur — [illegible] tamen
[illegible] non [illegible] executio [illegible]
[illegible] suspendi [illegible] per appellationem [illegible]
[illegible] executio non suspendi-
[illegible] interpretatio [illegible]
[illegible] interpretationibus [illegible]
[illegible] cap. [illegible]
[illegible] interpretationibus [illegible]
[illegible] ad [illegible]
[illegible]
[illegible] cap. [illegible]
[illegible]
[illegible] executio [illegible] executionem
[illegible] executio [illegible]
[illegible]
[illegible]
[illegible] executio [illegible] appellationem [illegible]
[illegible]
[illegible] cap. [illegible]
[illegible] executio [illegible]
[illegible] ideo [illegible]
[illegible]
[illegible] executionem ideo [illegible] appellationem
[illegible]
[illegible]
[illegible] ad [illegible] et [illegible]
[illegible] cap.
[illegible]
[illegible] executionem [illegible]
[illegible] executio [illegible]
[illegible]
[illegible]
[illegible]
[illegible] ad [illegible]
[illegible]
[illegible]
[illegible]

per diffinitivam omnis [illegible] in hac causa [illegible] non
competentis iudicis [illegible] per appellationes suspensivas
[illegible] per [illegible] [illegible] [illegible]
principum [illegible] [illegible] et aliis [illegible] [illegible] pre-
dicti [illegible] ~~[illegible]~~ et [illegible] [illegible]
rem in materia [illegible] [illegible] executionis vel [illegible]
[illegible] [illegible] [illegible] [illegible] in [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] appellationis [illegible]
[illegible] [illegible] [illegible] ad tempus [illegible] prelata [illegible]
[illegible] [illegible] [illegible] [illegible] et in hac causa
[illegible] [illegible] confessionem [illegible] [illegible] per [illegible]
[illegible] contra quam [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] in lege [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] de [illegible]
et [illegible] [illegible] [illegible] [illegible] qui [illegible]
[illegible] [illegible] non appellavit intra tempora a
lege diffinita [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] in [illegible] in materia [illegible] omnis
[illegible] [illegible] [illegible] ab [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] ad [illegible]
[illegible] cap. [illegible] [illegible] [illegible] in [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] facultatem [illegible]
et ideo [illegible] [illegible] a non [illegible] iudice [illegible]
[illegible] [illegible] [illegible] appellationis executionis [illegible]
non [illegible] [illegible] [illegible] [illegible] [illegible] ex [illegible]
[illegible] qui [illegible] de [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] est
[illegible] [illegible] cui licet quod est [illegible] licet [illegible]
quod est [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] in [illegible] [illegible] [illegible]
[illegible] Principes [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] non [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] exceptionibus cap. [illegible] [illegible] in [illegible]
[illegible] quod si [illegible] denunciationis addatur [illegible] excom-
munioni [illegible] posset judex [illegible] excommunicatus denunciare
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] excommunicationis [illegible] denunciationis cum non
[illegible] absolvi nisi a Pontifice et in hoc casu maxime
addatur ipsi excommunicationi a qua [illegible] ipsius volunt
absolvere, ideo in hoc casu denunciationem [illegible] [illegible]
[illegible] explicant [illegible] [illegible] de [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] Molina de [illegible] [illegible] part. 2. [illegible] [illegible]
[illegible] [illegible] contrariam interpretationem [illegible] in cap.
[illegible] [illegible] ubi [illegible] appellationis suspendi
excommunicationis [illegible] et eandem excommunicationem [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] excommunicati
[illegible] declarationis [illegible] excommunicationis [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] ideo [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] ideo [illegible] [illegible] [illegible]
[illegible] [illegible] excommunicatus [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] appella-
tio [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] in [illegible] [illegible] =

[illegible] [illegible] [illegible] [illegible] [illegible]
intelligendus [illegible] [illegible] [illegible] [illegible] de verbis
[illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] ideo [illegible] appellationis [illegible] [illegible] in
[illegible] interpretationis [illegible] in cap. [illegible] de
de appellationibus [illegible] excommunicationis [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] appellat
suspendi [illegible] [illegible] [illegible] [illegible] excommuni-
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] cap. [illegible] =

Contrariam interpretationem

videtur dicendum [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] lege in aliis
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] tempore [illegible]
[illegible] conditionis [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] novo imposita conditionis et
eadem [illegible] [illegible] conditionalis [illegible] [illegible]
[illegible] [illegible] [illegible] ad [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
executionis [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
per interpositionem appellationis [illegible] [illegible]
[illegible] [illegible] respondendum est [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] in [illegible] [illegible] [illegible]
[illegible] ad tempus [illegible] [illegible] [illegible]
[illegible] temporis [illegible] [illegible] [illegible]
[illegible] [illegible] non [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] conditionis [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible]

Et ma vera doctrina infertur [illegible]
[illegible] ad [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] executionis
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] executionis [illegible] [illegible] in dicto respon-
dendum videtur non liceri [illegible] [illegible] execu-
tionis [illegible] [illegible] executio conditionalis per
appellationem [illegible] [illegible] tempore [illegible]
[illegible] [illegible] [illegible] [illegible] executionis [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
tempore [illegible] conditionis [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]

premittit [illegible] contra [illegible]
nos est valde difficilis in l. chirographis 87 § 1 vers. de
administratione tutorum [illegible] si quis [illegible] bonis alienis
relegatus appellaverit medio tempore si bona alienaverit
[illegible] alienatio quasi appellatio [illegible] conquer
[illegible] [illegible] et simul per illam declaravit relegat-
-ionis appellandi [illegible] difficultatis explicandae causa obser-
-vandum est in dicto § 1 vers. agi de relegato inter eos
et deportatos illud interest ut relegatus non patiatur
[illegible] bonorum nisi specialiter sententia [illegible] de-
portatio vero bona aufert nisi index deportatis nihil pro-
[illegible] [illegible] [illegible] lege relegati [illegible]
lege relegatos — § ad tempus de [illegible] [illegible] de-
[illegible] l. [illegible] [illegible] est [illegible] ad si relegatos con-
-demnati appellaverit [illegible] [illegible] bonorum ad [illegible] [illegible]
[illegible] [illegible] in [illegible] lege [illegible] [illegible] con-
[illegible] [illegible] [illegible] [illegible] [illegible] mor-
-tuus fuerit [illegible] [illegible] est [illegible] relegatis bonis
[illegible] [illegible] [illegible] contrahentis ad specialiter [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] superest
[illegible] examinanda appellationis causa [illegible] ad bona
[illegible] [illegible] [illegible] [illegible] est [illegible] [illegible] con-
[illegible] in [illegible] [illegible] [illegible] publicatio est accessoria
et sequela [illegible] [illegible] [illegible] deportatio [illegible]
in [illegible] [illegible] dicta lege [illegible]

Deinde [illegible] [illegible] est [illegible]
[illegible] ad [illegible] [illegible] [illegible] dicta lege [illegible]
[illegible] vero [illegible] ad tempus [illegible] [illegible] [illegible]
bonorum [illegible] [illegible] [illegible] dicto § ad tem-
-pus dicta lege deportatis [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] explicanda [illegible] [illegible]
[illegible] chirographis § 1 vers. de bonis alienis [illegible]
[illegible] [illegible] bonorum [illegible]

[illegible] [illegible] est [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] 3 et alii

ingerunt

3 abditto

cum pendente appellatione nullus condemnatus videatur l. 2 §ult. ff de penis

non debeant effectus sortiri

recitur exeo nam

possunt ante sent.

ea

et inde cum ille

etiam post interpositam appellationem fieri ante sent. sufficit. dictat post[illegible]

ante sent.

lege xeo 41 et sequentibus ff de solutionibus

et agentibus ideo idem ... pendente appellatione dicendum est.

Jamnetto de falsitate p. 164 num 24

non revocari alienationem ex eo quod pendente appellatione facta fuisset sed quando in se ipsi facta fuit quia fraus cum sufficit ante sent. ad revocandam alienationem ... et post sent. pendente appellatione si contingat sufficiet.

fraudis praesumptio quae versatur in ultimo ex eo pendet.

[illegible] si modo [illegible] condemnata [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] de [illegible]
[illegible] cap [illegible] [illegible]
[illegible] in [illegible] [illegible] [illegible] [illegible] legatis [illegible]
[illegible] [illegible] [illegible] [illegible] condemnato
[illegible] [illegible] si appellaverit [illegible] [illegible] provocatione
[illegible] cautionem interponere debere [illegible]
[illegible] pendente appellatione remedio [illegible]
non [illegible] [illegible] [illegible] [illegible]
ab [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] praetoria [illegible]
[illegible] [illegible] [illegible] non [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] nomine [illegible]
[illegible] appellatio [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] non [illegible]
dicta lege [illegible] [illegible] [illegible] [illegible]
dicta lege [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] appellatione [illegible] [illegible] contestationem
[illegible] [illegible] petere potest [illegible] [illegible].

contra [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] quod [illegible]
[illegible] si [illegible] [illegible] [illegible] [illegible]
[illegible] potest petere post litem contestatam contra le=
[illegible] [illegible] [illegible] respondet [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] in [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] sed quod [illegible]
si [illegible] non [illegible] [illegible] nam [illegible] non [illegible]
nec [illegible] [illegible] [illegible] [illegible] contra [illegible]
[illegible] [illegible] illa verba [illegible] [illegible] [illegible]
si non [illegible] [illegible] petere potest [illegible] [illegible] contestationem
[illegible] [illegible] [illegible] [illegible] in [illegible]
si [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] in lege [illegible]

[illegible] [illegible] [illegible] [illegible] cuius [illegible] =
[illegible] [illegible] [illegible] in dicta [illegible] [illegible] [illegible] =
[illegible] et in dicto [illegible] eidem [illegible] honoribus [illegible] =
[illegible] [illegible] quecumque [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] honoribus
habitis abstinere debeat [illegible] [illegible] [illegible]
priori causa pendente appellatione honoribus [illegible]
[illegible] debeat [illegible] [illegible] reus [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] condemna=
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] ad [illegible] [illegible] [illegible]
[illegible] [illegible] reis [illegible] [illegible]

Lecta ad tunc in capitulo [illegible] Clemaudis [illegible] Celsi

Die 7a mensis septembris hora 5a [illegible] anno 1649 in [illegible]

vespertina [illegible] vacavit [illegible] Felicis de

[illegible] Neapolitanus [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

De [illegible] dignitatibus [illegible] Academica explicatio.

No. 1

Tractatum [illegible] in beneficiariam hoc anno illustrare suis auctoribus imperat Academia mater nobilissimi ac amantissimi auditores; obtinent illa in titulo de [illegible] et dignitatibus; et res in [illegible] fama quae multa [illegible] recitationibus [illegible], amplissima est, difficilis, et [illegible] in [illegible] [illegible]. [illegible] beneficiis [illegible] gravissimi [illegible] ad normam sacris Canonibus [illegible] decisionibus [illegible] [illegible] Scriptores [illegible] [illegible] illustrare [illegible] Epistolas Decretales [illegible] dederunt [illegible] explicare diligenter [illegible] [illegible] itaque Deo auspice [illegible].

No. 2

Expedit [illegible]

[illegible]

No. 3

Itaque [illegible] temporibus Caroli Magni [illegible]

[illegible]

assignabantur ut largiore animo illi ministerio sibi commisso incumberent qui facile fuisse ... Genero ... quem alii Imperatores ante ... ut constat ex ... de quo ... Alexander ab Alexandro ... dierum genialium cap. 16 ... cap. 22 Julius ... Belli Civilis ... Clemens ... lib. 10 ... epist. 286 ... de hac ... posteriori termino ... responsio de illis qui ... judicatur, ...

stans iure tempore ... — speciali iure ...

Ex ... spiritualis vel ecclesiastica ...

No 6.

... definiri solet, ut ... Hortensius in ... Cardinalis ... Barola in Clementinis ... ipsos Valdenses ... et Consuetudo ... ut prebenda sit ius cuiusdam redditus ... alicuius ... ministerii ... suffragio et aliis prerogativis, ... monachus 22. 26 ... Gonzales ... Quintana Duenas ... similia ... quoniam sicut ... cuiusdam redditus, ut signat ... fructus ... habet et fructus ... Canonicus ... beneficii ... capitulo ... Cardinalis ... et ceteri canonici ...

... publicis Canonicis ... Caroli ... suffragio et aliis prerogativis ... in capitulo ... et in Coro ... cap. 8 ... No 5 =

No 7.

... spiritualiter ... perpetuum ... ecclesiasticum ex canonica institutione ... beneficii ... cap. ... spiritualis ... annexa loco ... ecclesiastica ... cap. 2 de ... percipiendi ... ecclesiasticos ... beneficiis ecclesiasticis ... ex Apostolo 16 ... ex Canonica ... beneficium ecclesiasticum sine canonica institutione ... ministerii ... perpetuum ... beneficii ... Greg. ... de beneficiis ... cap. 9. No 2. Quintana Duenas ...

No 8.

... beneficii ... temporis ... beneficium ... beneficium ... Thomas ... beneficii ... Thomas ... de ... No 7 =

No 9.

... de ... Quintana ... dicuntur ...

[illegible] de [illegible] militari [illegible] 12. [illegible] generaliter accipiatur [illegible] honor vel [illegible] gradus [illegible] ceteris [illegible] de [illegible] extraordinariis [illegible] quamvis [illegible]
[illegible] C. de dignitatibus [illegible] 12 [illegible] Bartolus [illegible]
[illegible] dignitas [illegible] significat [illegible]
[illegible] ecclesiasticis administrationibus [illegible] aliqua [illegible]
[illegible] dignitate [illegible] appellantur [illegible]
[illegible] Nicolaus Garcia [illegible] Barbosa [illegible] de canonicis et dignitatibus [illegible] Cathedralibus et collegiatis [illegible]

[illegible] dignitas [illegible] ecclesiasticis [illegible] jurisdictio [illegible] beneficii [illegible] [illegible]

Illud [illegible] omittere [illegible] dignitas differat a [illegible] Canonicatus [illegible] dignitas [illegible] honor [illegible] Canonicis [illegible] Clericis [illegible] dignitatibus [illegible] presbyteris [illegible] dignitatem habent [illegible] dignitatibus [illegible] Archidiaconatus, Archipresbyteratus [illegible] Decanatus [illegible] Thesaurarius [illegible] Theologus [illegible] habent [illegible] dignitatis [illegible] Canonicatus [illegible] personatus [illegible] Cathedrali [illegible]

[illegible] dignitatibus [illegible] beneficii [illegible] Concilio Trid[entino] [illegible] de reformatione [illegible]

[illegible] necessitatis [illegible] dispensat [illegible] ... [illegible] cap. [illegible]

[illegible] cap. [illegible] ... ut quemadmodum aliis beneficiis sublevemur [illegible]

... [illegible] hoc [illegible] ...

[illegible] ... cap. [illegible] hoc [illegible] ...

... [illegible] ... cap. [illegible] 10 ...

[illegible] 26. 9. ... [illegible] ...

... intellectus ad [illegible] ... [illegible] dignitatibus ...

... [illegible] ... [illegible] ... ad [illegible] ...

... [illegible] dignitatibus [illegible] ... qualitates [illegible] ...

... [illegible] ... [illegible] ...

= [illegible] ... [illegible] =

= [illegible] =

= Academica et solemnis [illegible] ad [illegible] cap. [illegible]

= 1.º hoc [illegible] dignitatibus. =

Num. 1.

Nostrorum [illegible] ex [illegible] Concilio [illegible] celebrato [illegible] anno 1110, ut [illegible] fert, et docent Baronius et Spondanus [illegible] anno [illegible] 4, [illegible] ubi affirmant [illegible] Concilii Canones [illegible] Caduerunt [illegible] investituras [illegible] a saecularibus fieri [illegible], ne fortasse [illegible] illas daret aut acciperet, [illegible] simoniacos, ecclesiasticos [illegible], et alia similia, ut [illegible] cap. [illegible] cap. 2 [illegible] [illegible] Clericorum et [illegible], et [illegible] regulariter [illegible] hoc decrevit ut [illegible] [illegible], velut animadvertit [illegible] Augustinus [illegible] ... [illegible] fieri solet [illegible] Confessionis [illegible] ut [illegible] cap. [illegible] de off. [illegible] Archidiaconi, cap. [illegible] primicerii [illegible] ordinarii [illegible] et [illegible] Clericorum, [illegible] Clericorum [illegible] [illegible] lectiones, cap. 2 [illegible] et aliis [illegible], ubi [illegible], aut aliud simile [illegible] [illegible], aut formali grammatica [illegible]. =

Num. 2.

[illegible] examinandam [illegible] ... [illegible] bona ecclesiastica habeant, quae [illegible] ... [illegible] generaliter [illegible] ... [illegible] ... [illegible] refert [illegible] ... [illegible] ... [illegible] ... [illegible] ... [illegible] cap. [illegible] ... [illegible] ... [illegible] =

Num. 3.

[illegible] et aliorum [illegible] ... [illegible] ... ecclesiastica accipi debent [illegible] ... ut nullus ecclesiastica bona [illegible] beneficium iure successionis sibi habenda requirat [illegible] ex [illegible] 1. [illegible] beneficia [illegible] aperte indicat Canonis [illegible] ... regulariter [illegible] rubricam [illegible] de [illegible] = 2.º [illegible] ... ecclesiastica bona [illegible] habenda [illegible] appellatio [illegible] ... [illegible] bonorum 49 [illegible] ... [illegible] ... [illegible] ... [illegible] Cardinalis, et [illegible] ... [illegible]

[illegible] in parvo Beneficioli [illegible] dispensat. super defectu natalium n. 25. Mandosius de [illegible] [illegible] dispensatio super defectu natalium [illegible] dispensabat [illegible] Quaranta de Sacris ecc. ministeriis [illegible] [illegible] et alii plures quos refert et sequitur [illegible] in collectaneis ad Decretales collect. 89 per totam. =

n. 4.

Nec tunc quidquam obstat [illegible] in [illegible] populo, [illegible] distendere [illegible] [illegible] [illegible] dicamus [illegible] Laicus actualis a Collat. Benef. [illegible] semper incapax [illegible] [illegible] Garcia de Benef. [illegible] 7. p. cap. per tot. et 1. p. cap. 2. n. 28, ubi plures [illegible] cumulant, nec [illegible] actualis ordinatio [illegible] Selva de benef. [illegible] n. 24. Quaranta de sacris [illegible] ministeriis [illegible] cap. 6. Thomas Sanchez [illegible] [illegible] cap. [illegible] Lara de Capellaniis [illegible] 2. cap. 5. n. 2 [illegible] [illegible] Laicus [illegible] Flaminius Parisius [illegible] [illegible]

[illegible]

n. 5

[illegible]

[illegible]

n. 6

Igitur [illegible] [illegible] ad Decretal. [illegible] [illegible] Decretalibus coll. [illegible]

n. 7

[illegible]

[illegible]

Successor nomine [illegible]

[illegible]

13

Quae difficultas diriguntur adversus nos quatenus [illegible] beneficiis ecclesiasticis [illegible] difficultate [illegible] ecclesiasticis [illegible] [illegible] capitulo [illegible] [illegible] 36. [illegible] 7. [illegible] 45. [illegible] beneficio [illegible] 31. et alios [illegible] referens [illegible] [illegible] n.° 57. [illegible] ecclesiasticis [illegible] [illegible] 2. [illegible] successio [illegible] [illegible] =

14

Denique [illegible] [illegible] 12. 7. [illegible] Decreti [illegible] Augustinus [illegible] [illegible] beneficio [illegible] [illegible]

15

Nec dubitationis [illegible] [illegible] successionis ecclesiasticae [illegible] de [illegible] beneficii [illegible] [illegible] 25. [illegible] 27. [illegible] 16. [illegible] capitulo ad decorem [illegible] [illegible] de [illegible] beneficio [illegible] successio [illegible] = [illegible] Garcia de beneficio [illegible] 7. [illegible] Canonicus [illegible] [illegible] 12. [illegible] successores [illegible] beneficio ecclesiastico [illegible] capitulo consultationibus de [illegible] [illegible] beneficio [illegible] =

16

[illegible] [illegible] Lambertinus de iure patronatus 3. [illegible] 2.° [illegible] beneficio [illegible] 3. [illegible] 25. [illegible] [illegible] ordinarii [illegible] 27. [illegible] 26. [illegible] 3. [illegible] 7. [illegible] Barbosa [illegible] 57. [illegible] successio [illegible] [illegible] beneficio [illegible] successionis [illegible] [illegible] 20. [illegible] =

[illegible]

Hinc [illegible] difficultatibus [illegible] [illegible] 29. [illegible] successioni [illegible] Cardinalis [illegible] 3. [illegible] [illegible]

265

[illegible] Jacobus [illegible] canonica [illegible] successus [illegible] habere [illegible] de sorte
Domini; [illegible] veteri sacerdotes cum uxoribus et filiis [illegible] sacerdotes de tribu
[illegible] sacerdotalis [illegible] successio sacerdotii [illegible] electio [illegible]
[illegible] personas [illegible] [illegible] legis [illegible]
[illegible] sacerdotii in lege veteri et successio [illegible] hoc [illegible]
[illegible] Bellarminus [illegible]

n. 27

Maximi dubii [illegible] Divi Petri [illegible] discutiamus animad-
vertimus [illegible] quisnam Divi Petri in Pontificatu immediatus fuerit successor. [illegible]
[illegible] Hieronymus ad caput 52 Isaiae [illegible] Historiae [illegible] S. Petrus
[illegible] Clemens [illegible] Divi Petri successorem Pontificatu. [illegible] Augustinus
[illegible] epist. 56., [illegible] Bellarminus, post Petrum in Pontificatu successerunt
[illegible] Linum, et post Linum Clementem [illegible] Caesariensis [illegible]
[illegible] Hieronymus [illegible] Clemens [illegible] anno 68 [illegible]
[illegible] in Vita Pontificis [illegible] Clemens immediate post
Petrum, et Linum [illegible] successisse [illegible] approbare videtur [illegible] Canon [illegible]
[illegible] Alii denique [illegible] Divi Petri [illegible] Clemens succe-
[illegible] Petri [illegible] post Petrum [illegible]
[illegible] Clemens [illegible] Pontificali [illegible]
[illegible] Clemens [illegible]
[illegible] S. Petrus [illegible] Bellarminus [illegible]
[illegible] Divi Petri [illegible]
[illegible]
[illegible] Clemens ad Pontificatum [illegible]
[illegible] Pontificatus [illegible]
[illegible]

n. 28

[illegible]

n. 29

[illegible]

[illegible] benef[iciis] in quibus [illegible] observantur, [illegible] 27. [illegible] 6. cap. 10 [illegible]. Barbosa [illegible] alleg. 71. [illegible]

[illegible]

[illegible] Videtur [illegible] cap. [illegible]

[illegible] debeant accipi [illegible] cap. [illegible] 10. cap. ult. [illegible] ita docent [illegible] Ostiensis [illegible] in d. cap. [illegible] Cabarellas et [illegible] in cap. [illegible] Clerici 6. de [illegible]

Num. 6.

Denique [illegible] difficultas deducta ex d. cap. [illegible] 7. ex quo [illegible] successores [illegible] generalem [illegible] nec Valerium, nec Augustinum, nec [illegible] sibi successores elegisse, aut nominasse, [illegible] tamen clero [illegible] personas quas [illegible] dignas indicabant, populus [illegible] clerus [illegible] eligere [illegible] modo [illegible] Canonibus [illegible]. [illegible] cap. [illegible] 8. [illegible] quam decernitur [illegible] episcopos [illegible] sibi in vita eligere [illegible] [illegible] et [illegible] et Clericorum, qui post obitum potestatem habere eligendi. [illegible] ibi [illegible] populi [illegible] quibus [illegible] improbari [illegible] successorem [illegible] eligeret [illegible] populi [illegible] successor nominaret post obitum, referri populi [illegible] intervenire [illegible] successor [illegible] [illegible] clerici [illegible] succederet [illegible] successoris [illegible] decisio, [illegible] Archidiaconus [illegible] Barbosa [illegible] cap. [illegible]

Num. 7.

[illegible] Alexandro 3. [illegible] ordinavit [illegible] Archidiaconatus [illegible] successio [illegible] difficultas [illegible] Covarruvias [illegible] num. 27. [illegible] filio [illegible] Fratre [illegible] Beneficii [illegible] ecclesiastici [illegible] successori [illegible] 27. [illegible] Barbosa [illegible]

Num. 8.

Queritur [illegible] successio in beneficii [illegible] filii [illegible] cap. [illegible] 7. de filiis [illegible]

[illegible] ... in ... Canonici ... [illegible] ... de elig. ... 4 ... [illegible] ... 28 ... [illegible] ... Andreas ... [illegible]

[illegible] ... in filiis illegitimis ... [illegible] ... succedere ... [illegible]

20

[illegible] ... de filiis ... [illegible]

21

[illegible]

[illegible] succedit, nec ipse succedit [illegible] singularis [illegible] debet, [illegible]
[illegible] Ordine [illegible]
[illegible]
[illegible] capite [illegible]
[illegible] docet [illegible] Molina [illegible] cap. [illegible] 91 [illegible]

[illegible] habet [illegible] succedit [illegible] qui [illegible] necessario [illegible]
[illegible] vel Coadjutoribus habeat [illegible] succedit [illegible]
[illegible] solvere debeat, [illegible]
[illegible] vel necessario successore [illegible]
[illegible] plures quos refert, [illegible] at [illegible] Congre[illegible]
[illegible] Facit [illegible] filius [illegible] debet, [illegible] filius cui pater [illegible] heres [illegible]
[illegible] successio [illegible] patris, [illegible] tenetur [illegible] celebravit [illegible]
[illegible] plures [illegible] Fachineus qui plures refert [illegible]
[illegible] capite [illegible] 27 [illegible]
[illegible] venirent ad [illegible]
[illegible] Molina [illegible] Moneta de [illegible]
[illegible] Barbosa [illegible]

[illegible] Coadjutoris [illegible] successor, [illegible] Archiepiscopi [illegible]
[illegible] habuerit coadjutores, [illegible] successor, [illegible]
[illegible] successor [illegible] archiepiscopi [illegible]
[illegible] coadjutoris [illegible]
[illegible] Concilio Trid. [illegible]

[illegible] succedant post decessum [illegible] coadjutores [illegible]
[illegible] Valderrama, [illegible] habeat hereditariam [illegible] successionem [illegible]
[illegible] coadjutores [illegible]
[illegible] Carolum [illegible]
[illegible] Molina [illegible]

[illegible] ut electus [illegible] successor [illegible]
[illegible] Archiepiscopi [illegible] Nec [illegible]
[illegible] successor [illegible]
[illegible] Archiepiscopo [illegible]
[illegible] Archiepiscopi [illegible]
[illegible] ordinandus [illegible]
[illegible] successor, [illegible] ordinare [illegible]
[illegible]

[illegible] succederent [illegible]
[illegible] nominare [illegible]

[illegible] ... quia [illegible] ... de volunt. [illegible] ... [illegible] ...

... [illegible] ... ita ut ... [illegible] ... intercapedine ... [illegible] ...

... [illegible] ... libera ... [illegible] ... indiceret, itaque ... [illegible] ...

... [illegible] ... 1599 ... [illegible] ...

... 1599.

[illegible] ... ut nullus ... [illegible] ... ad hunc ... [illegible] ... spectant et ... [illegible] ...

... [illegible] ... habere ... Capellanias Spirituales ... [illegible] ...

... [illegible] ... celebrari ... [illegible] ... obtinere ... [illegible] ...

... [illegible] ... indice ordinaria, vel ecclesiastica ... [illegible] ...

... auctoritate ... [illegible] ... [illegible] ... gl. ... 66. [illegible] ...

... Capellaniis ... [illegible] ... Garcia de benef. ... [illegible] ... 35. ... [illegible] ...

... [illegible] ...

... [illegible] ... n. 26. ... [illegible] ...

... [illegible] ...

... [illegible] ... c. 7. ... [illegible] ...

... [illegible] ... Covarruvias ... [illegible] ...

... [illegible] ...

... [illegible] ... Garcia de benef. ... [illegible] ...

... [illegible] ...

... [illegible] ...

[illegible] ... nominatim ... [illegible] ... Garcia ...

... [illegible] ...

... [illegible] ... c. de ... [illegible] ...

n. 7. [illegible] ... n. 27. ... [illegible] ... ultima voluntas, ut ... [illegible] ...

... Molina de Hispan. primogen. lib. ... cap. ... [illegible] ...

... [illegible] ... Garcia ... [illegible] ...

... [illegible] ...

... [illegible] ...

... [illegible] ... Garcia ... [illegible] ...

n. 28. [illegible] ...

... [illegible] ...

... [illegible] ...

... [illegible] ...

... [illegible] ...

... [illegible] ... n. 27. ... [illegible] ...

... [illegible] ... Card. ... [illegible] ...

... [illegible] ...

... [illegible] ...

[illegible] ... Gubernat ... [illegible]

[illegible]

Denique ... [illegible] ... beneficii ... [illegible]

... [illegible] ... Cathedrali ... [illegible] ... cap. ... [illegible]

... [illegible] ... successor ... [illegible]

... [illegible] ... beneficii ... vacatione ... [illegible]

Denique ... [illegible] ... beneficii ... [illegible] ... successor ... [illegible]

... [illegible] ... beneficii ... [illegible] ... Barbosa ... [illegible]

... [illegible] ... beneficii ... [illegible]

Laus Virgini ... gloria ... [illegible]

Ex Cathedrali ... [illegible] ... cap. ... [illegible]

cap. ... 84. ... 27 ... 16. cap. ... [illegible]

... [illegible] ...

N.° 1.°

... [illegible] ... beneficii ... [illegible]

... [illegible] ... cap. ... 27 ... [illegible] ... cap. ... [illegible]

... [illegible] ... benefic. cap. 8. ... [illegible] ... benefic. 2 ... cap. 5. ... [illegible]

Margin notes: ... [illegible] ... cap. ... ; cap. 17 quaest. 45.

... [illegible] ...

Juan[illegible] de [illegible] 31 [illegible] n° 81 [illegible] moralis [illegible] 3 cap. 4 [illegible] Thomas Sanchez [illegible] moralis [illegible] cap. [illegible] dubio [illegible] [illegible] alegat [illegible] refferunt [illegible] cap. 6 [illegible] [illegible] quaestio 10 [illegible] alii plures quos [illegible] refferunt [illegible] Cenedo in Collect. ad Decretales [illegible] 3 [illegible] adq [illegible]

Verumquamvis [illegible] [illegible] [illegible] debere [illegible] [illegible] clericos [illegible]

22

[illegible] clericos [illegible] beneficio [illegible] nec ordinatorum [illegible] ut [illegible] [illegible] [illegible] D. Pauli [illegible] hoc fecisse [illegible] [illegible] Apostolorum capitulo [illegible] de [illegible] Apostolus de [illegible] [illegible] Clemens [illegible] [illegible] [illegible] beneficio [illegible] [illegible] [illegible] ordinari [illegible]

[illegible] ordinarii absque beneficio titulo, vel alio [illegible] [illegible] [illegible] [illegible] ordinario [illegible] [illegible] beneficio [illegible] [illegible]

24

[illegible] [illegible] [illegible] [illegible] [illegible] ordinariis [illegible] [illegible]

25

[illegible] [illegible] [illegible] Concilio Calcedonensi [illegible] [illegible] anno 451 [illegible] [illegible] [illegible] Carolus Magnus [illegible] [illegible] [illegible] [illegible] Calcedonensi [illegible] ordinationis sine titulo [illegible] observato [illegible] [illegible]

26

[illegible] [illegible] militiae [illegible] [illegible] clericorum [illegible] [illegible] [illegible] cap. [illegible] Calcedonensi [illegible] [illegible] [illegible] cap. [illegible] [illegible] clericorum [illegible] [illegible] capitulo [illegible] Concilio Trid. [illegible]

[illegible] cap. [illegible] Cardinalis [illegible] cap. Vitalis [illegible] Clericus [illegible]

[illegible] Clericus [illegible] cap. [illegible] alius [illegible] cap. Clericus [illegible] cap. [illegible]

[illegible] Denique [illegible] cap. [illegible] Nicolaus [illegible]

[illegible] cap. [illegible] Clericis [illegible]

[illegible] Facultas [illegible] cap. [illegible]

[illegible] ... quam [illegible] ... [illegible]

[illegible] ... [illegible]

[illegible] quam [illegible] ... Concilio [illegible] ... Nont. [illegible]

n.º 11.

[illegible] Clericus [illegible] ... [illegible] ex Concilio Carthaginensi [illegible] celebrato sub Anastasio anno 398 [illegible] ... Concilii Calcedonensis [illegible] ... ex artificio [illegible] ... Clerici [illegible] ... artificio [illegible] ... Clericis et monachis [illegible] ... Dum enim Paulus [illegible] ... artificio [illegible] ... Concilii Turonensis [illegible] celebrati anno 460, ubi [illegible] ... Clerici, ut [illegible] Calcedonensis Clerici [illegible] artificio [illegible] ... in Clericis [illegible] ... Clericus [illegible] ...

n.º 12.

[illegible] religiosus [illegible] ... religiosus [illegible] ... ad ordines sacros [illegible] ... docent [illegible] ... Rebuff. [illegible] ... religionis [illegible] ... ex Concilio Trid. [illegible] ... Emmanuel Rodriguez [illegible] ... Barbosa [illegible] ... Concilii Trid. [illegible] ...

n.º 13.

Denique [illegible] ... Clericus [illegible] ... Ordines [illegible] ... [illegible] ...

n.º 15.

[illegible] ...

[illegible] Valeant [illegible] [illegible] ordinarium [illegible] capitulo [illegible] Trid. [illegible] cap. [illegible]

n. 26

Q. [illegible] Canonicis [illegible] decernit [illegible] [illegible]

[illegible]

n. 27

[illegible] Trid. cap. [illegible] [illegible]

[illegible]

n. 28

[illegible] Concil. Trid. [illegible] cap. [illegible] [illegible] Ordinarii [illegible] Valeat [illegible] Thomas [illegible] Navarrus [illegible] Gonzalez [illegible] Cardinalis [illegible]

n. 29

[illegible] Concilii [illegible] Decretis [illegible]

n. 30

[illegible] Trid. [illegible] [illegible]

[illegible] = [illegible] difficultas [illegible] sive successor [illegible] [illegible] sine in ipso [illegible] Canonicae institutionis titulo, [illegible] habet, [illegible] regulis [illegible] heredes [illegible] descendentibus [illegible] tenentur [illegible] vlt. ff. de [illegible] [illegible] Constitutionum [illegible] [illegible] similiter et successores in beneficio [illegible] obligantur, [illegible] [illegible] de [illegible] cap. 3. de [illegible] quoad hanc [illegible] difficultatem [illegible] quemodo accipiatur sive de herede sive de successore [illegible] principijs [illegible] =

n° 21

[illegible] Canonicae actiones [illegible] in heredes [illegible] successores [illegible] Navarrus [illegible] [illegible] Covarrubias [illegible] Barbosa [illegible]

n° 22

Faciamus [illegible] successor [illegible] beneficio [illegible] [illegible] Imperatoris [illegible] Quintana [illegible] [illegible] Thomas Sanchez [illegible] Barbosa [illegible] =

n° 23

[illegible]

[illegible] Diaconi [illegible] cap. ad [illegible] de renunt. Et alij [illegible] electi [illegible]

[illegible] cap. [illegible] de electis [illegible] si quis [illegible]

[illegible] ad sacros ordines promotus [illegible] Apostolica [illegible] ordinatus [illegible]

[illegible] de filijs presbiterorum [illegible]

[illegible] Salcedo in praxi Canonica [illegible] Barbosa de [illegible] allegat [illegible]

N.° 24

Deinde [illegible]

[illegible] annorum [illegible] Canonicus [illegible] Diaconus [illegible]

[illegible] beneficio [illegible] Collegiatae [illegible] titulo ordinandi [illegible]

[illegible] Diaconus Ordinandus [illegible]

[illegible] Canonicus [illegible] ordinatione [illegible] cap. [illegible]

[illegible] Diaconatus [illegible] annorum [illegible]

Diaconatus vigesimi [illegible] subdiaconatus [illegible] vigesimi [illegible] Diaconus [illegible]

[illegible] Concilij Tridentini [illegible] cap. 12 [illegible] subdiaconatus [illegible]

[illegible] Barbosa [illegible] allegat [illegible]

cap. 26. [illegible] Diaconus [illegible] Canonicus [illegible]

[illegible] de temporibus ordinationum [illegible]

[illegible]

[illegible] Concilij Tridentini [illegible]

[illegible] ordinatus [illegible] Clericalis ordinis [illegible]

[illegible] beneficio [illegible] Concilij [illegible] decisis [illegible]

N.° 25

[illegible]

[illegible] ordinibus [illegible]

[illegible] Tridentini [illegible] cap. 17 [illegible]

[illegible] Diaconus [illegible] cap. [illegible]

[illegible] Nicolaus [illegible] Praxis [illegible] n. 4 [illegible]

[illegible]

[illegible] Cardinalis [illegible] 16. [illegible]

N.° 26.

[illegible]

[illegible] Clericorum [illegible] Concilij [illegible]

[illegible] cap. [illegible] 66 [illegible]

[illegible] Lezana [illegible] n. 96. et 112. ubi [illegible] alios refert, nec non [illegible] semel [illegible] collati [illegible] [illegible] Carthagena [illegible] [illegible] 6. § quamvis [illegible] [illegible] Carcerius [illegible] § 10. n. 12 [illegible] ad Decretum [illegible] collect. 77. n. 5 [illegible] [illegible]

Nunc [illegible]

art. 27

[illegible] n. 6. Navarra [illegible] 34. n. 5. [illegible] Garcia [illegible] [illegible] [illegible] n. 70 Nicolaus [illegible] [illegible] 5. n. 161. [illegible] 37. [illegible] Barbosa [illegible] n. 26. = [illegible] Gonzalez [illegible] § 15 n. 27. Garcia de [illegible] 5. n. 168 [illegible] 4. [illegible] 159. n. 17. [illegible] 9. [illegible] 4. [illegible] n. 11. [illegible] 8. [illegible] 3. n. 92. [illegible] =

art. 28

[illegible] 15. [illegible] n. 72. Suarez [illegible] 6. [illegible] 5. n. 150. = [illegible] cap. 5. n. 161. [illegible] [illegible] 4. n. 22 [illegible]

art. 29

[illegible] n. 3. n. 77. Garcia p. cap. 5. n. 150. [illegible] Barbosa [illegible] n. 70. [illegible] 159. n. 71. [illegible] [illegible] 30. [illegible] [illegible] § 22. n. 74 [illegible]

[illegible]

[illegible] ubi [illegible] plenum [illegible] [illegible] [illegible] opinionum [illegible] [illegible]

3.° [illegible]

Et c.° aliqui [illegible] quia ad [illegible] [illegible] [illegible] an decidant [illegible] [illegible] [illegible] beneficij ecclesiastici [illegible], alij affirmant, aliqui negant, [illegible] [illegible] [illegible] [illegible] Nicolaj [illegible] n.° 74. [illegible] [illegible] n.° 294. [illegible] [illegible] [illegible]. Quibuscumque [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] n.° 87. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] beneficij [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] n.° 124 [illegible] [illegible] beneficij [illegible] [illegible] n.° 122 [illegible] [illegible] [illegible] [illegible] [illegible] =

4.° [illegible]

Hinc provenit [illegible] beneficij ecclesiastici [illegible] [illegible] [illegible] [illegible] Concilij Trid. decreto [illegible] [illegible] [illegible] docent [illegible] [illegible] [illegible] n.° 64. dicitur autem pacificus [illegible] nulla lis, vel Controversia mota [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] pacificus [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] beneficio, [illegible] fructibus, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Valeat [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Apostolica [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] =

5.° [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] Nicolaj [illegible] Nicolaj [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]:

[illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible]:

[illegible]

= Caput [illegible] =

Sequitur explicandum [illegible] cap. de multa 28. [illegible] cap. [illegible] 5. [illegible] 7. [illegible]
= cap. [illegible] 14. cap. [illegible] 15. cap. Cum [illegible] 16. [illegible]
= [illegible] =

2.° In [illegible] Sinodus [illegible], de [illegible] pluralitate [illegible] beneficiorum [illegible]
[illegible]
Si habens beneficia curata [illegible] dignitates, vel [illegible] [illegible] litteras [illegible]
[illegible]
[illegible] episcopus [illegible] conferendo [illegible]
[illegible] cap. [illegible] 4. [illegible] cap. [illegible]
[illegible] cap. [illegible] 28. cap. [illegible]
[illegible] 52. [illegible] cap. [illegible] cap. [illegible] 4. [illegible]
cap. [illegible] 16. [illegible] cap. [illegible] 4. [illegible]
[illegible] 7. de reformatione [illegible] 4. de reformatione
cap. 17. [illegible] C. [illegible]
[illegible] Ordinarius [illegible] 3. [illegible]
Nicolaus Garcia de benef. [illegible] 3. [illegible]
[illegible] 6. [illegible] 64. [illegible] 62. [illegible] 10. [illegible]
beneficialis [illegible] cap. [illegible]
[illegible] Barbosa [illegible] 72. [illegible]
[illegible] Barbosa [illegible]
[illegible] Decretales [illegible] =

Verum licet [illegible]
sit, [illegible]
qui in pluribus beneficiis [illegible]
[illegible] beneficiis [illegible]
6. [illegible] beneficiis [illegible] pluralitatis [illegible] 4 [illegible]
[illegible] duo beneficia curata [illegible]
[illegible] =

3.° [illegible]
[illegible] 7. cap. [illegible]
[illegible] cap. [illegible] 7. [illegible] beneficium [illegible]
[illegible] beneficium [illegible]
[illegible] =

4.° [illegible] beneficia [illegible]
[illegible] 27. [illegible] beneficium [illegible]
[illegible] 28. [illegible]
[illegible] beneficium [illegible]
[illegible] beneficium [illegible]
[illegible] =

5.° [illegible]
[illegible] cap. 6. 15. [illegible]
[illegible] cap. [illegible] 89. [illegible] 25.
[illegible]
beneficii [illegible]
[illegible]
[illegible] 7. [illegible] =

6.° [illegible]
[illegible]
[illegible] beneficii [illegible]
[illegible] 57. [illegible] 4. [illegible]

Marginalia: [illegible] ; et 49. [illegible] 172. [illegible] 16. [illegible] 2 [illegible] 4.

Nisi ex duobus monasterijs [illegible] prohibetur. = Alij asserunt [illegible] pluralitatis benefi[ciorum] [illegible] originem [illegible] ex Gregorij magni Constitut[ione] relata in cap. singula [illegible] [illegible] [illegible] [illegible] [illegible] quibus [illegible] [illegible] [illegible] videmus = Alij dicunt [illegible] interdictionem [illegible] ex Concilio Placentino Celebrato sub Urbano 2° relato in cap. [illegible] 70 d. ubi ait [illegible] principis [illegible] [illegible] aliquis [illegible] liceat, [illegible] Canonicus haberet = Alij asserunt pluralitatis [illegible] habuisse ex Concilio Toletano 16 cap. 4. relato in cap. unico [illegible] ubi [illegible] hoc ait [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Alij denique [illegible] habuisse ex [illegible] Clem[entis] [illegible] [illegible] relata [illegible] [illegible] [illegible] haberet [illegible] = Verum [illegible] opiniones, et plures alias quas ob brevitatis [illegible] [illegible] [illegible] generalis [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] =

Quare [illegible] varius, et vacarimus [illegible] pluralitatis [illegible] dictis [illegible] Ordinaliter [illegible] ex [illegible] Synodo Nicena can. 15. ex quo [illegible] [illegible] [illegible] [illegible] [illegible] Clericus [illegible] Colligitur [illegible] [illegible] [illegible] tempore [illegible] [illegible] [illegible] [illegible] pluralitas beneficiorum [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Quintana Duenas, [illegible] [illegible] 15. = Verum [illegible] Synodi Niceni [illegible] [illegible] Constantinopolitanus [illegible], [illegible] Lateranense [illegible] Alexandro 3° Celebratis [illegible] ampliavit, et generaliter extendit ad omnes [illegible] prohibendo [illegible] plurima beneficia [illegible] [illegible] alijs locis, ut [illegible] colligitur ex cap. [illegible] [illegible] [illegible] [illegible] [illegible] Postea successit aliud Lateranense Concilium [illegible] sub [illegible] 3° [illegible] [illegible] prohibendo similiter pluralitatem ex quo [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] beneficiorum [illegible] [illegible] [illegible] [illegible] [illegible] per [illegible] [illegible] [illegible] 10. [illegible] [illegible] 3° de off. [illegible] [illegible] Clement[ina] [illegible] [illegible] Joannes 22 [illegible] [illegible] [illegible] [illegible] Generalis [illegible] [illegible] Cardinalis [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] =

No. 8

[illegible] Statuimus hoc [illegible] pluralitatis interdictum plures [illegible] [illegible] interquos Primus [illegible] Romanus [illegible], qui [illegible] Romana [illegible], [illegible] Sede illa Apostolica, ibi [illegible] Summum Pontificatum [illegible] Christo Domino [illegible] [illegible] 15. [illegible] [illegible] domino cap. [illegible] 16. [illegible] Romana 24. [illegible] cap. [illegible] Romana [illegible] [illegible] [illegible] [illegible] Venerabilis [illegible] [illegible] [illegible] dominus [illegible] [illegible] legitimus, quique liceat [illegible] [illegible] [illegible] duntaxat [illegible], [illegible] [illegible] [illegible] dignitatibus ecclesiasticis et beneficijs [illegible] [illegible] [illegible] sub [illegible] pluralitatis interdicto [illegible] [illegible] [illegible] [illegible] beneficij [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Quintana Duenas [illegible] 10. = Habetur [illegible] [illegible] Cardinalibus [illegible] [illegible] archie[piscopali] [illegible] proximus dignitatis gradus [illegible], [illegible] Cardinalitia [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Quintana [illegible] [illegible] [illegible] [illegible] [illegible] Cardinalibus commendas [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] beneficiarios [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Cardinales [illegible] [illegible] 17. [illegible] Cardinalatus [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Cardinalibus [illegible] =

No. 9.

[illegible] hoc interdictum patriarchas [illegible] [illegible] [illegible] Principes dicuntur, [illegible] unicis [illegible] vel beneficia [illegible] [illegible] [illegible] habere, [illegible] [illegible] ex Concilio Trid. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Quintana Duenas [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] qualitatis [illegible]. Nec ab hoc [illegible] [illegible] dignitates obtinentes, [illegible] [illegible] [illegible], Priores, [illegible] [illegible] [illegible] generis [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] benef. lib. 3. q. [illegible] n.º 105. Quintan. Duenas [illegible] ab eo relat. ubi s.ª n.º 108 = Anglus
[illegible] interdictum esse ut duos canonicatus [illegible] ut simul nequeant obtineri [illegible] residendo
[illegible] cap. [illegible] de praebendis lib. 6. Trid. sess. 24. c. 2. et sess. 24. cap. 17. et [illegible]
Canonicatus [illegible] beneficiorum obtineantur in diversis Ecclesiis Cathedralibus vel Collegiatis [illegible]
[illegible] incompatibilia [illegible] Canonicus [illegible] residentiam facere [illegible]
[illegible]; [illegible] sunt bene [illegible] uniformia [illegible] ut [illegible] Collegiis [illegible] cap.
de praebendis lib. 6. [illegible] litteras de concessione beneficiorum [illegible] et magis abhorrent [illegible]
obtineri uniformia beneficia [illegible] in diversis, ut docet [illegible] Cardinalis [illegible]
sequuntur [illegible] ab eo relat. ubi s.ª n.º 4 ubi plures alios [illegible] adducunt. [illegible] beneficia [illegible]
[illegible] dissimilia, vel deformia obtineri possunt simul in eadem Ecclesia [illegible]
[illegible] de praebendis lib. 6. [illegible] ut [illegible]
[illegible] Nicolaus Garcia de benef. p. 7. cap. 11. n.º 224 Anglus [illegible] qui affirmat [illegible]
[illegible] beneficia [illegible] singularia [illegible]

n.º 10

Denique breviter animadvertendum [illegible] incompatibilia [illegible]
requirentia [illegible] dispensatione obtineri, [illegible] Concilij Tridentini [illegible] super
[illegible] Summus Pontifex dispensat [illegible] adeo ut [illegible]
ciat dispensatio in foro interiori [illegible] et [illegible] Vener. [illegible]
hanc opinionem amplectentes [illegible] Canonicae [illegible] 44. [illegible] cap. 5. [illegible] beneficiis [illegible]
[illegible] vel [illegible] in diversis [illegible] dispensare; [illegible] decisioni Concilij Trid. [illegible]
4. [illegible] sess. 24. cap. 17. et declarationibus Cardinalium [illegible] dispensatio fieri ad plura beneficia [illegible]
[illegible] dispensat [illegible] Nicolaus Garcia de benef. p. 5. [illegible] 956. [illegible]

n.º 11

[illegible] proponenda [illegible] plures
[illegible] Sit [illegible] beneficia [illegible]
[illegible] cap. [illegible] Apostolus [illegible] cap. [illegible] resolvere
[illegible] beneficium [illegible] Canonicis [illegible] Cormenia [illegible]
[illegible] dispensat ad plura beneficia. ex quo [illegible]
[illegible] Clericus [illegible] beneficia [illegible] beneficia;
[illegible] Valeat [illegible] remouere [illegible]
cap. placuit [illegible] de [illegible] 21. q. 2. [illegible] cap. [illegible] 7. q. 1. [illegible] Quintan. Duenas
[illegible] n.º 49. [illegible] =

n.º 12

Sit 2.º [illegible] pluralitas beneficiorum [illegible]
[illegible]
[illegible] beneficia [illegible] paupertate [illegible]
[illegible] alij [illegible]
[illegible]
[illegible] quia Ubique [illegible] Concilium [illegible]
[illegible] cap. [illegible]
[illegible] Quintan. Duenas [illegible]
[illegible] ad [illegible] 158. [illegible] =

n.º 13

Sit 3.º [illegible] inter Clericos [illegible]
[illegible] cap. [illegible]
[illegible] spiritualia [illegible] frequenter [illegible]
uxores habere [illegible] cap. [illegible] quomodo [illegible] Trid. sess. 24. [illegible] canone 2.º
[illegible] Clericus [illegible] cap.
[illegible] cap. sicut [illegible] 2. [illegible]
[illegible] Decreta, [illegible] pluralitas [illegible]
[illegible] Collegium [illegible]
[illegible] Trid. sess. 24. cap. 7. [illegible]
[illegible]

n.° 4.

Alias rationes [illegible] interdicti adduct [illegible] Clericus l. 22 c. 2 [illegible] plures [illegible] ambire negotiationes [illegible] [illegible] alicui [illegible] dicitur [illegible] honores [illegible] [illegible] ambitu [illegible] quia [illegible] ambitio [illegible] [illegible] n.° 47. = [illegible] Matthaei cap. 6. [illegible] quia nemo potest [illegible] duobus dominis servire [illegible] [illegible] = [illegible] unusquisque [illegible] [illegible] Orare [illegible] debet [illegible] Clericus Orationi [illegible] [illegible] Deus [illegible] [illegible] n.° [illegible] =

n.° 5.

V[illegible] [illegible] [illegible] deduciy [illegible] de Clericis [illegible] Ordinarii beneficiis simplicibus [illegible] habere [illegible] [illegible] [illegible] opiniones, [illegible] beneficii simplicis [illegible] [illegible] residentiam [illegible] [illegible] [illegible] [illegible] Collegii [illegible] [illegible] benef. [illegible] Nicolaus Garcia [illegible] n.° 200. = [illegible] simplicia beneficia [illegible] [illegible] [illegible] [illegible] beneficii simplicis [illegible] [illegible] [illegible] [illegible] beneficiis simplicibus [illegible] pluralitate beneficiorum =

n.° 6.

Verum in hoc opinione [illegible] affirmamus [illegible] [illegible] n.° 24. Nicolaus Garcia [illegible] n.° 260. [illegible] de anniversariis et Capellaniis cap. [illegible] [illegible] de residentia [illegible] [illegible] Clericis [illegible] = [illegible] [illegible] [illegible] [illegible] residentia in simplicibus [illegible] [illegible] [illegible] Nicolaus Garcia n.° 264. [illegible] pluralitate [illegible] beneficiis [illegible] [illegible] n.° 52. [illegible] Garcia [illegible] [illegible] [illegible] defendere conantur. =

n.° 7.

[illegible] deducitur [illegible] [illegible] beneficii simplicis [illegible] residentiam [illegible] [illegible] [illegible] [illegible] ex fundatione [illegible] [illegible] Cathedralibus [illegible] [illegible] beneficii [illegible] [illegible] [illegible] [illegible] [illegible] Marianus [illegible] [illegible] Nicolaus Garcia [illegible] pluralitate [illegible] =

n.° 8.

[illegible] beneficii [illegible] [illegible] [illegible]

[illegible] ... nulla [illegible] diversa [illegible] ... Cap. 27 fuit [illegible] ... huiusmodi [illegible] habito, ut [illegible] Colij [illegible] ... Nicolaj [illegible] ... n.° 46 ... [illegible]

[illegible]

n.° 19.

[illegible] ... Clerici diversas [illegible] ... beneficia [illegible] ... obtineri [illegible] ... Concilij Lateranensis generalis [illegible] ... beneficij [illegible] ... vel personatus [illegible] vacare [illegible] ... beneficij incompatibilis [illegible] ... de off.° iudicis Ordinarij [illegible] Clem. [illegible] ... Nicolaus [illegible] =

n.° 20.

Verum [illegible] ... Successit aliud [illegible] ... Lateranensis [illegible] ... beneficij curati, dignitatis vel personatus, seu aliud simile beneficium incompatibile ipso iure primo privari, postquam [illegible] beneficium [illegible] ... absque dispensatione [illegible] ... Hinc ultimo [illegible] ... S. Concilij Tridentini [illegible] ... c. 4. ad obtinenda [illegible] beneficia [illegible] incompatibilia quaecumque [illegible] ... cap. 5 [illegible] ... de off. [illegible] ... n.° 6. ad [illegible] auferendam ... pluralitate [illegible] ... 24. [illegible] cap. 17. [illegible] ... pluralitatis [illegible] ... Ceus [illegible] =

n.° 21.

[illegible] beneficia incompatibilia [illegible] ... beneficij [illegible] vacet [illegible] ... beneficia [illegible] Curata, [illegible] dignitates [illegible] ... beneficia [illegible] vacant [illegible] ... beneficia [illegible] ... Cathedralibus [illegible] ... Curato [illegible] ... n.° 3 [illegible] ... cap. 17. [illegible] ... beneficium [illegible] ... cap. 17. [illegible] =

n.° 22.

[illegible] ... Concilij Lateranensis [illegible] ... 27. [illegible]

[illegible] 27 beneficij [illegible] [illegible] ... [illegible] Cardinal [illegible]
[illegible] excusat [illegible] ignorantia [illegible] cap. [illegible] [illegible] cap. [illegible]
[illegible] ... adversus [illegible] gratia [illegible] ... [illegible]
[illegible] Ordinarius [illegible] c. 49. n. 37. [illegible] plures alios [illegible] ... [illegible]

n. 27.

Nec obstat [illegible] cap. [illegible] Presbyter [illegible]
[illegible] docuit Bonifacius [illegible] ... [illegible]
[illegible] libera conferri, et dici [illegible] ... beneficij [illegible] Clericus pluralis [illegible] ...
[illegible] Clericus [illegible] posset habere [illegible] beneficia, vel [illegible] ... Trid.
[illegible] cap. [illegible] ... vel [illegible] ... [illegible]
[illegible] cap. [illegible] cap. illud 21. q. 2. [illegible] cap. [illegible] 42 7 2. 1. vel [illegible] ...
alij [illegible] plurimi [illegible] ... [illegible] cap. [illegible] ... Navarrus in cap. accepta de rest. spoliatorum opposit. [illegible]
[illegible] Thomas [illegible] in Summa [illegible] 2. cap. 26. n. 12 plures [illegible] alij [illegible] =
[illegible] ... de [illegible] ... [illegible]
[illegible] ... Clericus [illegible] pluralitatis benefic. [illegible]
judicis declarat. [illegible] ... [illegible] animadvertit. =

n. 28

Nec [illegible] ... [illegible]
[illegible] spolij [illegible] ... [illegible]
[illegible] ... [illegible]
[illegible] cap. ad decimas, vel [illegible] ... [illegible]
[illegible] cap. [illegible] ... [illegible] ... de [illegible] ... cap. [illegible]
[illegible] cap. [illegible] ... beneficij in [illegible] cap. [illegible] ... [illegible]
[illegible] ... apostolica [illegible] ... vel [illegible] ... beneficij, vel [illegible] ...
[illegible] ... declarat. [illegible] ...
[illegible] ... Clericus pluralis [illegible] ... [illegible]
[illegible] ... beneficij [illegible] ... [illegible]
[illegible] ... plures [illegible] beneficij [illegible] ... Clericus [illegible]
[illegible] cap. [illegible] ... judicis declaratione [illegible] =

n. 29

Cessque [illegible] ... authoritate [illegible]
[illegible] pluralitatis [illegible] ... [illegible]
[illegible] ... pluralitatis [illegible] ... [illegible]
pluralitate beneficij curati, [illegible] ... pluralitatis [illegible] ...
[illegible] ... [illegible]
[illegible] ... [illegible]
beneficij [illegible] ... [illegible]
[illegible] Covarruvias [illegible] ... 150. n. 3. Nicolaus [illegible] ... beneficij
[illegible] n. 774. [illegible] plures [illegible] ... pluralitatis [illegible] ...
[illegible] ... Romanum [illegible] ...
[illegible] ... cap. 63. n. 28. Navarrus [illegible] cap. [illegible]
[illegible] ... cap. 28 [illegible] ... q. 3. art. 10. [illegible]
q. 27. art. 4. [illegible] n. 378 [illegible] plures [illegible] ...
[illegible] ... [illegible]

n. 30

Nec [illegible] ... [illegible]
[illegible] ... pluralitatis benefic.
[illegible] ... Concilium [illegible] ...
[illegible] ... [illegible]
[illegible] ... [illegible] Videntur [illegible] ...
[illegible] Barbosa [illegible] ... Concilij [illegible] ... plures [illegible] alij
[illegible] ... Navarrus [illegible] ... cap. [illegible] n. 129. [illegible]

n. 31

Nec [illegible] ... pluralitatis
[illegible] Videntur [illegible] ... 70 [illegible] ... [illegible]

Videntur, itaque in recte dici [illegible] dispensandi [illegible] ad solum Romanum Pontificem [illegible] breviter dicimus [illegible] Ecclesiastica [illegible] beneficia simplicibus dummodo [illegible] uniformia sub eodem tecto [illegible] personatibus [illegible] loquitur, in quibus [illegible] debet interveniendi Pontificia dispensatio. [illegible] evidenter colligitur [illegible] de concess. praebend. [illegible] Nicolaus [illegible] et Petrus [illegible] de benef. [illegible] cap. [illegible] n. 7 et 8 [illegible] =

n. 28

[illegible] ut [illegible] satisfaciam [illegible] quandocunque [illegible] authoritatibus [illegible] beneficiis [illegible] habenda personarum acceptio, breviterque dicimus [illegible] principaliter fundatur [illegible] potentia, vel nobilitas, vel alia temporalis [illegible] ut [illegible] cap. [illegible] Item [illegible] nobilis [illegible] virtute, et scientia [illegible] maioribus [illegible] meritis, nec nobilitatis [illegible] debent [illegible] ac maiori [illegible] splendor [illegible] excellentia [illegible] virtus, scientia [illegible] Verum quoad privilegia [illegible] dignitates nobilitas ubique [illegible] consideratur [illegible] ut constat [illegible] cap. [illegible] n. 27 [illegible] =

n. 29

[illegible] Pontificis [illegible]

[illegible] =

n. 30

Verum Maiestatem [illegible] Pontificis [illegible] Nicolaus [illegible] n. 12 [illegible] = Nec [illegible] n. 187 et 190 [illegible].

n. 31

[illegible]

[illegible] ... benef. ... [illegible]

[illegible] ... cap. ... [illegible] ... 40 ... [illegible]

n.° 32

[illegible] ... Concess. ... [illegible]

[illegible] ... Originali ... [illegible]

[illegible]

n.° 33

[illegible] ... Concess. ... [illegible] ... benef. ... [illegible]

[illegible] ... benef. ... [illegible]

n.° 34

[illegible] ... benef. ... Concesso ... [illegible]

[illegible] ... benef. ... [illegible]

n.° 35

[illegible] ... benef. ... [illegible] ... de alternativa ... [illegible]

[illegible] ... benef. ... [illegible]

[illegible]

N.° 2 [illegible] ad [illegible] ex [illegible]

[illegible] Abbatia [illegible]

[illegible]

N.° 3 [illegible] ad [illegible] dispensat. [illegible] duo bene[ficia] [illegible] Decani [illegible] Cardinalis [illegible] beneficij [illegible] Decani [illegible] beneficij [illegible] cap. [illegible] S. Nicolai [illegible]

N.° 4 [illegible] ad [illegible] Cardinalis [illegible] Cardinalis [illegible] Concilij [illegible]

N.° 5 [illegible] Cardinalibus [illegible] Concilij [illegible]

[illegible]

Ad ... et ... Honorii ... Clericis ... Academia ... [illegible]

Diebus Dominicis ... observari debere ... de feriis ... ad Corinthios ... Christus Dominus noster resurrexit a mortuis ... de corona militis cap. 3 ... Concilii ... cap. 47 ... Dominico ... Concilii ... cap. 7 ... cap. 6 ... Baronio anno ... [illegible]

[illegible]

[illegible]

[illegible] studiorum [illegible] —

[illegible] difficultas [illegible] decisionis [illegible] sacra Theologia [illegible] privilegiis [illegible] Imperatores [illegible] de privilegiis [illegible] C. de [illegible] Theologiae facultate [illegible] in scholis [illegible]

[illegible]

6

[illegible] decisionis [illegible] ad publicam utilitatem [illegible]

[illegible] Theologiae [illegible]

7

[illegible] Catholici Principes [illegible] litterarum [illegible] ad [illegible] Doctores [illegible] epist. [illegible]

[illegible]

[illegible] Theologiae [illegible] in Conc. Trid. [illegible] cap. [illegible] Concilio Trid. [illegible] decreti [illegible] Canonici [illegible] sacra Theologia [illegible] Canonistis [illegible] Theologiae [illegible]

[illegible] Iure, ut [illegible] Rebuffus [illegible] gregia [illegible] pag. 180, et [illegible] Bobadilla in Napolitica lib. 2 cap. 16 n. 64. [illegible] Canonico [illegible] universalis [illegible] Theologus videbatur [illegible] privilegiis [illegible] tradit Barbosa [illegible] n. 34 [illegible] Nicolaus Garcia [illegible] cap. 2 n. 64 [illegible]

n. 9

[illegible] Cardinales [illegible] Barbosa super [illegible] cap. [illegible] debebat. Decisio tandem [illegible] 37. Congregatio Concilii [illegible] privilegii [illegible] Cathedralis [illegible] Canonicos [illegible] Cardinalem [illegible] Nicolaus Garcia [illegible] n. 55 [illegible]

n. 10

[illegible] Iuris Civilis [illegible] Philosophiae, Rhetoricae, et Grammaticae aliarumque [illegible] facultatum [illegible] privilegio gaudere [illegible] cap. finali de Magistris [illegible] Civili [illegible] Canonicae [illegible] Romanae Curiae [illegible] Civilis [illegible] cap. [illegible] Civilis [illegible] Theologiae [illegible] privilegiis [illegible] Canonicae [illegible] n. 226 [illegible]

n. 11

[illegible] monachi [illegible] cap. [illegible] Civile [illegible] Canonici [illegible] cap. [illegible] Civili [illegible] Canone [illegible] n. 29 [illegible] Rebuffus [illegible] Barbosa [illegible]

n. 12

[illegible] Civile [illegible] Theologiae [illegible] Canonicae [illegible] cap. [illegible]

[illegible] in magna [illegible] Parisiis, adhuc [illegible] Lothanii, et Februarii 1722 [illegible] [illegible] ... in scholis docerent adjecerantque, quo tempore [illegible] universitate [illegible] noster [illegible] Honorius [illegible] recognosceret in Studio Parisiensi [illegible] Theologiae [illegible] Civile adjiciendi vel docendi [illegible] proponit [illegible] traditur [illegible] Barbosa d. voto [illegible] n. 2 [illegible] =

n. 9

Deinde animadvertimus necesse est ad hoc ut [illegible] Studium [illegible] [illegible] [illegible] quod [illegible] generali, seu Universitati [illegible] [illegible] [illegible] [illegible] Plures [illegible] [illegible] autem [illegible] illud dicitur [illegible] a summo Pontifice, aut a Rege, aut ab alio quolibet [illegible] Augusto Principe [illegible] [illegible] [illegible] [illegible] [illegible] ubi [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Princeps [illegible] [illegible] [illegible] [illegible] [illegible] de magistris [illegible] [illegible] Universitatem [illegible] toto orbe Celeberrima, Didacus Perez [illegible] [illegible] [illegible] Regno Castellae [illegible] [illegible] [illegible] Complutensi [illegible] [illegible] Rege [illegible] anno [illegible] [illegible] quam [illegible] honoribus [illegible] ad [illegible] Palentinae Universitatis [illegible] [illegible] Castell. Rege fundatae [illegible] Locupletavit; postmodum Ferdinandus [illegible] cognominatus Sanctus filius Alfonsi [illegible] [illegible] utriusque regni [illegible] [illegible] [illegible] [illegible] Universitatem, [illegible] [illegible] [illegible] [illegible] ut [illegible] paternam [illegible] [illegible] [illegible] augmentis. Successit Alfonsus decimus Castellae [illegible] [illegible] Academiae doctoribus et magistris [illegible] [illegible] [illegible] [illegible] leges [illegible] [illegible] [illegible] [illegible] [illegible] regalem [illegible] hoc fuerunt [illegible] [illegible] [illegible] Confirmatus [illegible] anno 1255 [illegible] [illegible] [illegible] [illegible] Alex. [illegible] 22 [illegible] 4 [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] anno 1431 [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Universitatis [illegible] Nicolaus [illegible] n. 58 ubi affirmat [illegible] hoc ab aliis [illegible] [illegible] ad Universitatem [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] animadvertit. =

n. 11

Denique [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] privilegiis [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] n. 24 [illegible] privilegio [illegible] [illegible] [illegible] [illegible] [illegible] privilegia [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Moneta [illegible] n. 10 [illegible] n. 105 [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] quilibet [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] n. 27 [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] privilegio [illegible] [illegible] [illegible] [illegible] [illegible] Moneta [illegible] n. 15 [illegible] Facultatis [illegible] Universitatis [illegible] [illegible] [illegible] [illegible] Theologiam [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Philosophia [illegible] Theologia [illegible] [illegible] cap. [illegible] n. 105 [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] =

n. 12

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] integre cum fructibus, [illegible] minime [illegible] quoniam [illegible] qualiter [illegible] residentiae [illegible]

[illegible] 107. cap. [illegible] 27. cap. [illegible] Domini [illegible] advocati [illegible]

[illegible] 12. 22 [illegible] debeat [illegible] 41 [illegible] Primores [illegible]

[illegible] 2. [illegible] 23. et n. 24. cap. [illegible] 27 [illegible]

n. 16.

[illegible] Nec magis obstat 2.a difficultas [illegible] archidiacono privilegium [illegible] absens [illegible] fructus [illegible] Canonici [illegible] de distributionibus [illegible]

n. 17

Denique nihil obstat ultima difficultas proposita [illegible] quotidianis [illegible] fructibus [illegible] accessoriis [illegible] cap. 17 [illegible] 7. cap. 7. [illegible] 27 [illegible] 244. [illegible] de distributionibus quotidianis n. 41. et 49. [illegible] Collect. ad [illegible] 63 [illegible] 45. [illegible] 4. [illegible] 152. [illegible] 252. [illegible] 6. n. 8 [illegible]

n. 18

[illegible] licentia [illegible] fructus [illegible] Nicolaus Garcia [illegible] cap. [illegible] 28. = Nec magis [illegible] Capitulo [illegible]

facile evinci[illegible] in tractatu [illegible] ubi [illegible] Canonicus [illegible] [illegible] Clericus [illegible] in [illegible] generali ad tanti [illegible] [illegible] [illegible] =

n.° 19

[illegible] Quaeritur [illegible] [illegible] [illegible] Dicimus [illegible] unde [illegible] [illegible] [illegible] [illegible] Legitima abesse [illegible] [illegible] usque [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] licentia [illegible] [illegible] de percipiendis fructibus in absentia. [illegible] nova [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] absentes clericos [illegible] [illegible] licentia [illegible] [illegible], vel studio litterarum, vel pro aliis [illegible] causis [illegible] [illegible] abesse, quaeritur [illegible] studii litterarum [illegible] [illegible], [illegible] [illegible] [illegible] [illegible] absentes [illegible], de licentia [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible], [illegible] quocumque modo absint vel licentia, vel studiorum [illegible] vel ex aliis [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] residentes tradit [illegible] [illegible] [illegible] [illegible] n.° 10. [illegible] [illegible] [illegible] [illegible] [illegible] intelligere [illegible] [illegible] [illegible] [illegible] n.° [illegible] [illegible] [illegible] [illegible]

n.° 20

[illegible] Quaeritur [illegible] ad [illegible] Bonifacii [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] superiores [illegible] [illegible] [illegible] [illegible] [illegible] qui parochialia [illegible] benef.[illegible] [illegible] usque ad [illegible] litterarum [illegible] [illegible] promoveri ut sacerdotis [illegible] [illegible] [illegible] [illegible] [illegible] ad benef.[illegible] [illegible] [illegible] ad ord.[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] valeant, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] benef.[illegible] Videtur [illegible] [illegible] [illegible] [illegible] [illegible] benef.[illegible] [illegible] in studio [illegible] [illegible] [illegible] benef.[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] licentiis [illegible] = [illegible] ad sacerdotium [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] de elect. [illegible] benef.[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] dispensatio ut benef.[illegible] [illegible] [illegible] ad sacerd. promoti [illegible] [illegible] [illegible], [illegible] dispensatio [illegible] [illegible] litterarum studio [illegible], ut [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] litterarum [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] fructus [illegible] benef.[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] privilegiis [illegible] [illegible] [illegible] 56. =

n.° 21

[illegible] [illegible] antiquitate [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] Trid. [illegible] 24. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] idonei fuerint iudicati, permittitur studiorum [illegible] [illegible] [illegible], nec fructus [illegible] [illegible] [illegible] licentia Ordinariorum, ut ex [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] ad [illegible] [illegible] [illegible] [illegible] n.° [illegible] [illegible] [illegible] [illegible] [illegible] Barbosa alleg. [illegible] 53. n.° 27. [illegible] alleg. 56. n.° 30. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Ordinarios [illegible] [illegible] [illegible] [illegible] [illegible] licentias [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible], et [illegible] [illegible] [illegible] opere morali tractatu 7. [illegible] [illegible] [illegible] 5. [illegible] 9. [illegible] [illegible] [illegible] [illegible] Curata, [illegible] [illegible] [illegible] [illegible] studiorum causa abesse nisi [illegible] licentia Ordinariorum [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Declaratio [illegible] [illegible] [illegible] [illegible] [illegible] anno [illegible] 1564. [illegible] [illegible] [illegible] [illegible] [illegible] dispensation[illegible] [illegible] [illegible] fructibus [illegible] benef.[illegible] in absentia [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Ordinariorum [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 7. [illegible] [illegible] [illegible] 62 [illegible] Barbosa [illegible] alleg.

n.° 22

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Videtur [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] percipiendis fructibus benef.[illegible] [illegible] in absentia, [illegible]

[illegible] privilegii [illegible] Videatur [illegible] revocatio [illegible] = Caeterum breviter dicimus in hoc [illegible] facere agere de indulgentiis [illegible] studiorum, vel aliter [illegible] [illegible], quas [illegible], et [illegible] volunt [illegible] clericis [illegible] habebant, et [illegible] [illegible] dicitur [illegible] [illegible] Benef. [illegible] fructus [illegible] [illegible] privilegii generalis, [illegible] privilegia [illegible] [illegible] privilegio [illegible] indulgentiis [illegible] [illegible] Moneta [illegible] 10 n. 27 [illegible] de benef. [illegible]

n. 3

[illegible] Universitatibus Venit [illegible] in capite [illegible] Fraternitatis [illegible] de Seriis [illegible] residentibus ubi ex Canonici qui studiorum gratia indulgentiam habebant ut in absentia [illegible] fructus [illegible] percipiant prebendarum suarum, accepta licentia [illegible] ad Villas transferent, vel [illegible] exercitio litterarum, [illegible] fructus prebendarum suarum [illegible] tales Canonici solent percipere, Cui quaestioni [illegible] Respondit [illegible] fraude [illegible] Ex quibus [illegible] licentiis [illegible] absentes canonici studiorum gratia fructus percipiunt prebendarum suarum [illegible] privilegii [illegible] studiorum gratia [illegible], et [illegible] licentiae ad Villas transferunt, [illegible] [illegible] Secularis, vel Conventualis [illegible] studii sine licentia [illegible] percipiunt fructus Benef. [illegible] [illegible] absentes, [illegible] revocari absentes [illegible] obstante quocunque privilegio, vel [illegible] [illegible] Canonicis qui studiis [illegible] fructus prebendarum [illegible] Moneta [illegible] 10 n. 9. = [illegible] [illegible] Canonici [illegible] generale, [illegible] [illegible] litteras [illegible] [illegible] de privilegiis [illegible] [illegible] studii [illegible]

n. 4

Denique [illegible] absentes [illegible] studii [illegible] [illegible] Moneta [illegible] n. 24. [illegible] = [illegible] =

= [illegible] =

= [illegible] =

= [illegible] =

= [illegible] =

= [illegible] =

[illegible]

in [illegible] cap. 2o [illegible] cod. [illegible] cap. [illegible] 7. [illegible]
Vos [illegible] cod. [illegible] 14. [illegible] mandat. [illegible]
[illegible] memoriæ [illegible] cap. qui [illegible] ... [illegible] Ditandi. =

a° 6.

[illegible] difficultatibus minime [illegible] [illegible]
[illegible] facilius [illegible] [illegible] Catholicus [illegible] traditur [illegible]
[illegible] traditur [illegible] decidendi, hanc generis [illegible]
[illegible] mandatum [illegible] [illegible]
[illegible] cap. [illegible] de [illegible]
[illegible] cap. [illegible]
[illegible] cap. [illegible] rescripti [illegible] 3 [illegible] plures [illegible] =

[illegible]

[illegible] Imperatores [illegible] declaratio [illegible] Mag. [illegible]
[illegible] litteris [illegible] Diro [illegible]
[illegible] cap. [illegible] 22. [illegible] rescripti [illegible]
[illegible] 4. [illegible] 12. [illegible] 7. [illegible]
[illegible] cap. [illegible] de rescript. [illegible] 22.
[illegible] errantia. =

a° 7.

[illegible] rescripta [illegible] nullius [illegible] momenti [illegible]
[illegible] delegatus [illegible]
[illegible] rescripti [illegible]
[illegible] cap. [illegible] Valet. = [illegible]
[illegible] momenti [illegible]
[illegible] cap. [illegible]
[illegible] rescripti [illegible] habet [illegible]
[illegible] cap. [illegible] =

[illegible] rescripti [illegible] vero [illegible] Valere [illegible]
[illegible] cap. [illegible]
[illegible] =

[margin:] [illegible] demeriendo et [illegible] vel [illegible] [illegible] 26

n.º 10 [illegible]

[illegible]

n.º 11 [illegible]

[illegible]

n.º 12 [illegible]

[illegible] beneff. [illegible] vel [illegible] alias habentem [illegible] animarum annexam, quam à simplicia beneff. [illegible] qualitate [illegible] debet fieri [illegible] limitatur ad Iura, et accessoria annexa [illegible] beneff. impetrato, tamen necc. [illegible] mentio de tali Cura, vel Curato beneff.ô annexo, arg.º [illegible] qui [illegible] impetratio [illegible] veniunt accessoria arg.º [illegible] beneff. [illegible] nec [illegible] debet dici, nec [illegible] beneff. [illegible] ut [illegible] valore = 01

n.º 13 Facere de Valore beneff. [illegible]

[illegible]

n.º 14 [illegible]

[illegible] cuius ratio est, quod etiam quamvis attenta [illegible] tam [illegible] beneficii inutile [illegible], [illegible]
[illegible] utile, [illegible] [illegible] [illegible] [illegible] [illegible] 26. [illegible] [illegible]
[illegible] [illegible]. [illegible] eadem [illegible] debet de literis apostolicis [illegible] quas [illegible]
providere [illegible] si ipse [illegible] literis renuntiaverit absque authoritate et licentia superioris, ut [illegible]
ex cap. [illegible] de audientia [illegible] cap. [illegible] de rescriptis, [illegible] Felinus [illegible] [illegible]
[illegible] [illegible] in regula de [illegible] quaestio [illegible] Menochius [illegible] 7. n. 40. [illegible]
de qua [illegible] cap. ad audientiam [illegible] 2. ad licet [illegible] quis renuntiare, vel resignare beneficium sine licentia [illegible]
[illegible] [illegible] [illegible] renuntiat. [illegible] renuntiare literis obtentis ad bene[ficium]
[illegible] sine superioris authoritate. [illegible] cap. ad audientiam [illegible] renuntiatis [illegible]
[illegible] [illegible] quod beneficium acceptavit [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] debet [illegible]
cap. [illegible] de [illegible] in decretalibus. [illegible] [illegible] literis apostolicis ad obtinen[dum]
[illegible] [illegible] beneficii, et quia [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] inter [illegible], et [illegible]

Hinc [illegible] [illegible] beneficii [illegible]
[illegible] facultas retinendi utrumque beneficium, [illegible] [illegible] [illegible]
[illegible] [illegible] beneficii [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] ad [illegible] [illegible] [illegible] [illegible]
[illegible]. Qualia autem sint beneficia incompatibilia, et quae [illegible] retinere simul [illegible]
[illegible] de multis [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] de benefic. [illegible]
[illegible]

[illegible] [illegible] [illegible] [illegible] scandalo
[illegible], mandati apostolici executor [illegible] [illegible] [illegible] supersedere executioni [illegible]
ob vitandum scandalum [illegible] communi [illegible] [illegible] [illegible] cap. [illegible] de [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] convenit scandalum vitare, [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] quando [illegible] mandati apostolici executione [illegible] scandalum [illegible]
[illegible] [illegible] absque peccato non obtemperare eius mandato Apostolico, ut [illegible]. [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] mandatis, [illegible] [illegible] scandalum, [illegible] supplicationis, [illegible] mandati apostolici
[illegible] [illegible] [illegible] supplicandum [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] literas [illegible]
[illegible] [illegible], vel [illegible], aut in derogationem provisionum beneficiorum [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] literas [illegible]
[illegible] [illegible] [illegible] de benefic. vacant. [illegible] Curia [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] in literis apostolicis [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] Romana [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] scandalum [illegible] [illegible]
[illegible] beneficii [illegible] [illegible] [illegible]
scandalum [illegible] [illegible] [illegible] [illegible]

Vide [illegible] 34. Felinum [illegible] 27 [illegible] et alii [illegible] in [illegible]

[illegible] Verum obstant [illegible] decisio adducta [illegible] 27 [illegible] auctoritatibus quibus probatur inferiores semper debere superiorum mandatis obedire, atque judices ordinarios executores [illegible] debere executioni mandare rescripta sibi [illegible] absque ulla dilatione et supplicatione [illegible] difficultas [illegible] in illa [illegible] animadvertenda; [illegible] itaque statuimus [illegible] Lege divina, naturali atque positiva obtemperandum esse ut [illegible] mandato [illegible] resistere [illegible] grave delictum [illegible] Claudius [illegible] [illegible] in cap. 13 et 10 [illegible] Mathei [illegible] cap. 10 [illegible] 24 [illegible] Belarminus de Romano Pontifice [illegible] = [illegible] ex [illegible] animo [illegible] voluntate [illegible] velut [illegible] tale mandatum [illegible] in cap. [illegible] de rescriptis [illegible] Thesaurus [illegible] Vindiciarum C. [illegible] publica utilitate [illegible] Summo Pontifici vel Principe [illegible] rescripta [illegible] [illegible] vel Principis [illegible] C. de legibus [illegible] = [illegible]

[illegible] Continuatur [illegible] in hac re [illegible] Collegii [illegible] Apostolicus [illegible] Canonicus [illegible] mandato [illegible] [illegible] vel [illegible] Principi [illegible] Thesaurus [illegible] Vindiciarum C. [illegible] mandatis [illegible] Deo [illegible] mandati [illegible] Mandatum vel [illegible] rescribentis [illegible] indicamus [illegible] mandato obedire [illegible] [illegible] de statu hominis [illegible] 27 [illegible] peccato [illegible] in cap. [illegible] 5. de temporibus ordinationum [illegible] in fine [illegible] de rescriptis [illegible] 27 [illegible] =

[illegible] Praeter [illegible] superiori [illegible] indicamus [illegible] dubitatus judex [illegible] mandatum [illegible] [illegible] Consilium [illegible] mandatis [illegible] obediens, et [illegible] executionem [illegible] ut [illegible] in cap. [illegible] de rescriptis [illegible] Si autem [illegible] dubitat [illegible] mandatum [illegible] judex obtemperare debet licet [illegible] Panormitanus [illegible] Felinus in d. cap. [illegible] de rescriptis [illegible] Carolus Belarminus [illegible] =

[illegible] Manet [illegible] in dubiis [illegible] licere [illegible] superioris mandato [illegible] mandatum [illegible] in magna [illegible] inferior [illegible] mandatis superioris [illegible] executionem [illegible] vel [illegible] collatio [illegible] [illegible] in [illegible] [illegible] mandatum [illegible] mandatis [illegible] cap. [illegible] =

n.° 22. Obsequium [illegible] posteacelebravimus irregularis [illegible] dubiis celebrando [illegible] de [illegible] [illegible] ad [illegible] 6. cap. [illegible] de appellationibus [illegible] Pontifex declaravent [illegible] Felinus [illegible] prosequitur. =

n.° 23. [illegible] de offo. [illegible] judicis delegati [illegible] ordinarius [illegible] judicis delegati Apostolici [illegible] attendentes. [illegible] Committur eidem Ordinario [illegible] [illegible]

n.° 24. [illegible] de off.° [illegible] ordinarius [illegible] Apostolici [illegible] mandato [illegible] appellatus [illegible] de rescriptis n.° 12. =

n.° 25. [illegible] mandati [illegible] Apostolici [illegible] scandalis [illegible]

n.° 26. Nec obstat [illegible] beneficii [illegible] de rescriptis n.° 27 [illegible] =

n.° 27. [illegible] Decani, et Archidiaconi beneficiarii [illegible] beneficii [illegible] Ecclesiastica [illegible]

[illegible] Rocruitt. cap. 2 [illegible] cap. 1° de [illegible] n. 16. = [illegible] Vitis [illegible], quomodo [illegible] dignitates [illegible] Simpliciumodo [illegible] [illegible] dignitatibus [illegible] circumstancias [illegible] [illegible] Verbis absolute [illegible] cap. [illegible] n° 3. [illegible] n. 16. [illegible] regulare beneficium [illegible] [illegible] n° [illegible] =

n° 28

Denique [illegible] [illegible] [illegible] Romani [illegible] [illegible] [illegible] n. 4. [illegible] n° [illegible] [illegible] n° [illegible] [illegible] =

n° 29

[illegible] [illegible] n° 4. [illegible] [illegible] Veritas [illegible] [illegible] n° 74. [illegible] n° 40. [illegible] n° 47 [illegible] [illegible] n° 233. [illegible] n° 24. [illegible] [illegible] =

n° 30

[illegible] [illegible] Vitas [illegible] [illegible] n° 12 [illegible] [illegible] cap. 1° [illegible] [illegible]

[illegible] valida [illegible]

[illegible]

n. 31.

3.º [illegible] Bonifacii [illegible] decretalibus [illegible] de [illegible] collatio de beneficio facta valida [illegible] Felin. [illegible] n. 43 [illegible] casu 201 [illegible] beneficii [illegible] valere, quoniam [illegible] beneficii [illegible] de Clericis [illegible] utile et firmum. = [illegible] Vitalinis [illegible]

n. 32.

4.º [illegible] ad Clementinam [illegible] beneficii [illegible] collatio [illegible] beneficii [illegible] beneficio [illegible] beneficii [illegible] beneficii [illegible] Rota [illegible] decis. 201, n. 70, et 154 [illegible]. =

n. 33.

[illegible] collatio [illegible] a Legato Apostolico [illegible] Legati Apostolici ordinaria [illegible] Bonifacius de Vitalinis [illegible] Bonifacius de Vitalinis [illegible] Legato [illegible]. =

n. 34.

[illegible] beneficii [illegible]

cap. 2. de off. judicis ordinarij cap. vigenda cap. nouerint 10 q. 1. cap. 10 et Barbos. [illegible] et quia expressim fundata per legatos [illegible] jurisditio ordinarij [illegible] de iure debet fundamento dicti benef. [illegible] aliorum benef. qui prouidentur a apostolicis legatis, cuius ratio [illegible], vel Archiepiscopus [illegible] prouisio sit [illegible] et fundata [illegible], sique [illegible] legati iuris dicto, [illegible] ordinaria = Accedit [illegible] huius rationi

[illegible] Ordinarij [illegible], et Ordinales [illegible] magis certi de valore, et qualit. beneficiorum suarum diocesis, [illegible] beneficiis totius orbis, aut legatus Apostolicus [illegible] provincij arg. [illegible] cap. finali 26 [illegible]

[illegible] a Menochio [illegible] n. 154. [illegible] Ordinarij [illegible] conferendo benef. [illegible], sed [illegible] sique in prouisionibus [illegible] Clausula illa [illegible] onera [illegible] magis [illegible]

ut ad [illegible] vacantes personas idoneas [illegible]; [illegible] prouidere [illegible]

[illegible] litteris, [illegible] Clausula illa [illegible] facere specialem. = Hoc [illegible]

[illegible] quando [illegible] Apostolicus legatus [illegible] benef. [illegible] fundamento dicti benef. [illegible]

[illegible] Clausula [illegible] litteris [illegible]

[illegible] cap. [illegible] n. 3. =

n. 35.

[illegible] Veneti nobilis [illegible] litteris de fide instrumentorum, [illegible] falsitatis [illegible] facti [illegible]

[illegible] Dicimus [illegible] Apostolica rescripta [illegible] de privilegiis, et [illegible]

[illegible] cap. [illegible] de fide instrumentorum [illegible]

[illegible] de fide instrumentorum [illegible] 54. [illegible] Mascard. [illegible] n. 46, [illegible] de falsitate, [illegible] Flaminius [illegible] litteris [illegible] n. 3. [illegible]

[illegible] falsitatis [illegible] Alex. [illegible]

n. 36.

Difficultas [illegible] dicimus [illegible]

[illegible] suspecto, [illegible] nominibus [illegible] fuit facta specialiter mentio in rescripto [illegible] generali nominibus [illegible] Cautela [illegible] litteris [illegible] facta [illegible] falsitati [illegible]

[illegible] litteris [illegible]

n. 37.

Dicimus [illegible] suspecta [illegible] videntur

[illegible] Mascard. [illegible] n. 4 [illegible]

[illegible] litteris [illegible] n. 25. [illegible]

[illegible] Mascard. [illegible]

[illegible]

Quo ad [illegible] ac Valida [illegible]

n. 38.

6. [illegible] uide cap. cetera 3. cap. [illegible] 9. [illegible]

-irritatur, ac rescripti tacita impetrans dignitatis subreptitie [illegible] super litteris [illegible] de rescriptis, [illegible] similiter
valere debet rescriptum ad [illegible] beneficii [illegible] impetratum, et si de [illegible] facta mentio, [illegible]
ut [illegible], et ut hanc difficultatem dissolvamus, discrimen [illegible] inter rescripta gratiae ad beneficia
data, et aliter rescripta iustitiae ad lites peragendas, itaut priora sint irrita ipso iure, si facta mentio dignitatis [illegible]
[illegible] extendi [illegible] similibus [illegible], posteriora vero iustitiae quoad lites, et si [illegible]
[illegible], [illegible] loquuntur [illegible]; cuius discriminis [illegible]
[illegible] rescripta gratiae est quia voluntatis, et tantum dependet ex [illegible], vel Principis voluntate, [illegible]
ideoque [illegible] veritatis exprimenda [illegible] ipso iure [illegible] exprimeretur, [illegible]
[illegible] tale rescriptum, aut difficilius absque fieret. at vero econtra rescripta iustitiae [illegible] necessitatis, itaut [illegible]
[illegible] ad partis instantiam, ne lex [illegible], et iustitia deperiat, ita [illegible] aliquid [illegible] ipso [illegible]
[illegible] usque dum [illegible] in iudicio [illegible], et [illegible] forma [illegible]
aliquis defectus [illegible] nullus [illegible]
[illegible] appellatio [illegible]. = Nec [illegible] huic dicto [illegible]
de rescriptis, ex [illegible] videtur rescriptum quoad lites beneficii impetratum nullum [illegible]
[illegible] ipso iure [illegible]
[illegible] de rescriptis, si quidem dolus [illegible] Principis [illegible]
[illegible] ad lites [illegible] impetratum [illegible]
[illegible] beneficii [illegible] n.° 3, et [illegible] n.° 14. =

n.° 39

[illegible] difficultas [illegible] n.° 14. [illegible]
[illegible] Thomas Sanchez [illegible] de matrimonio [illegible]
[illegible] Sanchez [illegible] de matrimonio [illegible]
[illegible]
[illegible]
[illegible] = [illegible]
[illegible]
[illegible] Thomas Sanchez [illegible] de matrimonio [illegible]
[illegible] = [illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible] = [illegible]
[illegible]
[illegible]
[illegible] Thomas Sanchez [illegible]

n.° 40

Denique [illegible] valde difficultas [illegible]
consanguinitatis [illegible] Thomas Sanchez [illegible] de matrimonio [illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]

aut decedere, ex quo ignorantia moti perseveraverunt bona fide in matrimonio se bene credentes [illegible] ad valorem gratiae [illegible]
[illegible] [illegible] licet huius morem reticerent, et videtur significandum [illegible] [illegible] vel deinde dedu-
cendum [illegible] cum [illegible] nova gratia fiat, sed dissimulatio sufficiat, quippe consanguinei bona fide matrimonium contraxit;
Et admittit [illegible] admonendi [illegible] scandalum quod ex eo oriri poterat [illegible], cuius periculi vitandi causa dissimulatio jubetur, aliis
[illegible] matrimonium nulliter cum mala fide [illegible] in dissimulatione de admonitione necesse esset [illegible] illorum qui contraxerunt
Scivissent ita tradunt Thomas Sanches [illegible] Gutierrez de matrimonio [illegible] Navarrus et alii [illegible]

: [illegible] refert et [illegible] de sponsalibus [illegible] § 10 n° 29 [illegible] :
: [illegible] [illegible] [illegible] [illegible] [illegible] [illegible], [illegible] :
: [illegible] Dei Omnipotentis laudes [illegible], [illegible] :
: [illegible] Matris [illegible], et [illegible] Sanctorum [illegible] :
: [illegible], [illegible] [illegible] :
: [illegible] Sanctorum [illegible] :
: [illegible] [illegible] [illegible] :
: [illegible] [illegible] :

Ad cap. Tuis questionib. 23. de præbend. et dignitat.

Scheda 34.

[illegible] ... Ante[a], hoc [illegible] ... sequentem [illegible] erant quidam Clerici in Minoribus [illegible] qui [illegible] ... [illegible] Beneficia Ecclesiastica [illegible] ... patrimonialia ... [illegible] ... Ordinare [illegible] ... Patrimonio [illegible] ... [illegible] ...

Canonicum [illegible] ... Patrimonium ad sacros ordines legitime promovendi [illegible] ...

[illegible] ... de Simonia ... [illegible] ... Trid. Sess. 21 ... Reformat. ... Garcia de Benefic. ... Suarez ... [illegible] ...

[illegible] ... in Manuali ... [illegible] ... Decret. ... [illegible] ...

Hoc Clericis [illegible] ... Beneficiorum [illegible] ... Statuit ... Clericos [illegible] ... Pauli ... [illegible] Apostol. ... [illegible] ... Apostolorum [illegible] ... Const. Apostolicarum ... [illegible] ... habere aut Patrimonium [illegible] ...

Augetur hac [illegible] ... Benef. vel Patrimonio [illegible] ... [illegible] ... Patrimonio [illegible] ... Religiosi [illegible] ... [illegible] ...

Augetur [illegible] ... Mendicare, [illegible] ... Michael [illegible] ... [illegible] ...

[Margin notes: [illegible] ... Nº 65 ... [illegible] ... Augetur ...]

17 Dispensare ... Sancte ... Clerisinam ... Patri ... cuius ...
Dismaja
... Antiquissimo ... clerici ... Patri ordinarii ... quod ...
... Clericis ... dispensatio ... ordinandos ... beneficium ...
Nicolaus Garcia ... nomine ... Adiit ...
... Cantabr ... Dioecesis ... Ordines ... olim ...
... quae in agro ... Dis ...

Pensio, annua ... Dioecesis ... Receptio ... Ordinum ...
vel Patrimonii ... Clericis ... Comprehendantur ... Minores ... Sebastianus Caesar ...
... olim ... Ordini ... Matrimonio ... Contractu ... Matrimonio ...
... Clerici ... Divino ...
... Clericis ... Voluntate ... sub titulo ...
... sequenter ... Ne Praebenda ... Dispensatio ...
... Praebendam ... ascendere ...
... Clericis ...
... Praebendam ... Beneficii ...
Doctor Suarez ...

...
... Beneficio ...
... Praebenda ... in Ecclesia ...
... perpetuis ...
... inamovibiles ... titulus ...

Interrogavit [illegible] ... interpretatis ad [illegible] ... Patronatus ... presentavit ...
... quod Rector ... ad [illegible] constitueretur ... dubium esset ...
... Patrono ... ad hoc ... sufficiens ... ad hoc et ... ordinario ...
... sufficiens ad hoc et ... presentationem ... tali presentato ...
... sufficientes ... ordinandos ... ita presentationem ... hoc fieri ... consensu ...
... ad [illegible] ... Patronatus ... etiam ... habeat ...
... Dixit ... et dixit ... Canonici ... affirmat ...
... praedicta presentatio ... Corpus ... Thomas ... Patroni ...
... ad fidem = ... Rector ... constat ... Corpus ... dixit ...
Sed ... Andreas ... Item ...
... ad praedictum ... Presentatione Rectoris ... Patrono ...
... quod ... quoniam ... Regulam ... Canonici ad ...
... Patronatus quod concedit ...
... Patronatus ... ad ordines Sacros ...
... sufficientem ... Patrono cum tali presentatione ...
... Patroni ... Patroni ... presentatio ...
... Praesentationem ...
... ordines ... Patroni ...
... Patroni ...
... Patronatus ... ordinarium ... Patroni ...
... Thomas ...

... Ordines Sacros ...
... legitime ... ordinario ...
... legitime ...

[illegible]

Interrogatus ... Rector ... Presentationem ... Rectoris ...
... Praesentatio ...
... Praesentationis ... ordinario ...
... Canonici ... ordinari ...
... Praesentationem ... Romana ...

qui de hoc et simile [illegible] praedictum fecere illicite exierunt. Ut [illegible] retardaret
a praedictis [illegible] et [illegible] faber [illegible] praedicto clerico ne defraudaret [illegible]
ad praedictam Ecclesiam quam [illegible] abire [illegible]
dispensari [illegible] filij [illegible] gratia [illegible]
Gratii Canni [illegible] Barbosa de [illegible] allegat [illegible]
[illegible] nec tamen doctrina impugnat [illegible] successisse in [illegible]
[illegible] speciei aperte colligitur nepotes [illegible]
[illegible] impedimentum illud quod [illegible] nam [illegible]
[illegible] certo [illegible]
prohibitio [illegible] nepotis quemadmodum [illegible]
[illegible] aliorum nepotum [illegible]
[illegible] ex [illegible] Canonicus [illegible]
[illegible] in [illegible] cum [illegible]
[illegible] infundatiorum [illegible] benefi[illegible] [illegible]
[illegible] dispensare [illegible] habeat [illegible]
[illegible] uniri de [illegible]
[illegible]

Demde [illegible] interpretatio [illegible]
[illegible] clerici [illegible]
[illegible] haberet [illegible]
[illegible] praedicta [illegible]
[illegible] illegitimi [illegible]
[illegible] et tamen [illegible]
[illegible] impedimento [illegible] ordine [illegible]
[illegible] casu quo ordinatus [illegible]
[illegible] casu [illegible]
[illegible] praedicta [illegible]
[illegible] quod esset necessaria dispensatio ad hoc ut [illegible]
[illegible] ut ascenderet ad superiores
[illegible] ordinis [illegible]
[illegible] interpretatio [illegible] Armenaro [illegible]
[illegible] Campos [illegible] de temporibus [illegible]

Deinde [illegible] 24
[illegible]

Deinde [illegible] secundo Apostolicam [illegible]
[illegible] 25

Scheda. 32.

Lib. 3. tit. 8.

Relatio ad [illegible] ex [illegible] de
Concursu obtinendi lecta die 22a Mensis
Novembris anno Domini 1646 et
Cathedra Decretalium Minoris quae
vacavit per mortem D. Fran[cisci] Campo
[illegible]. [illegible]
in C. [illegible]

[illegible] Concessi [illegible] recitata die 22.
[illegible] [illegible]

[illegible] Lateranensis Concilij Capitibus [illegible] extat mentio in [illegible]
Canonico [illegible] sorte [illegible] coalite asionatis fuit prohibitorij velit quo continetur
ne beneficia non de vacantia conferantur extat mentio in [illegible] 13 de concessione
[illegible] demonstrat [illegible] fuit quaestio super promissione beneficij non dum vacantis cui
[illegible] clerico facta [illegible] et Abbatis et monachorum [illegible] [illegible] contestata [illegible]
[illegible] ad [illegible] Abbatis clericus asserebat de [illegible] habere [illegible]
et [illegible] Abbatis et Monachorum sigillo qua continebatur promissio [illegible] beneficij super quo
[illegible] erat quaestio. Abbas et Monachi ex [illegible] parte asserebant [illegible] contra [illegible] Conc.
Lateranensis cap. quo cavetur beneficia non [illegible] vacantia minime promittenda [illegible] nullius [illegible]
nullus [illegible] firmitatis [illegible] instrumentum habere [illegible] Concilij [illegible]
[illegible] [illegible] esse momenti [illegible] Monachi et Abbas sint [illegible]
[illegible] ab huiusmodi [illegible] et [illegible] clericus super hoc [illegible] nulla donatio [illegible]
[illegible] beneficium fuisset facta = [illegible] in specie [illegible] [illegible]
[illegible] Concessio [illegible] promissio beneficij vaccaturi non valet [illegible]
[illegible]

[illegible] tetamonijs fulcita [illegible] [illegible] [illegible] promissio bene-
ficij non vaccantis esset [illegible] Concilij Lateranensis [illegible]
[illegible] Abbatis [illegible] nulla esse promissionis [illegible] non fuerunt [illegible]
[illegible] causis Romano Pontifici [illegible] ergo [illegible] promissionis
beneficij non [illegible] vaccantis prohibita [illegible] Concilio Lateranensi = [illegible]
[illegible] ratio [illegible] propriis [illegible] et [illegible] non audiri [illegible]
[illegible] in Canonicis cui promissio fuit [illegible]
[illegible] Vaccatura [illegible] Canonici [illegible] promissionis [illegible] Conc.
Concilij Lateranense [illegible]
[illegible] [illegible] Abbas et Monachi [illegible] contra [illegible]
[illegible] alegantes [illegible]
[illegible] Lateranensis [illegible]
[illegible] Concilij Lateranensis [illegible] celebrato [illegible]
[illegible] [illegible] 17 [illegible]

Quibus non obstantibus dicendum est verissimum esse, quod textus assertione scilicet beneficiorum vacaturorum promissionem omni iure prohibitam esse cum prohibitionis ... intelligamus molestiam ... repetentis animadvertimus ... ecclesie temporibus ... inordinatam esse. Ut constat ex Lucretio Papa Epistola 2. que extat in ... audivimus 3. ... et ex variis testimoniis ... Antonio Augustino lib. 4. ... Pontificii tit. 24. ... Ut illi ... superiori ... ne ecclesiastica ... alijs ... infamie et ... coerceatur. Ut constat ... excud. 1o. hoc nostro tit. de concess. prebend. et exd. cap. audivimus 3. 2. eleganter ... lib. 6. de sacris ecclesie ministeriis cap. 1o. que prohibito adeo ... Ut ... vacaturi promissio ... quo mortuus fuerit beneficiarius ... omnino non ... escat ... ne quando ... in initio ... aut alias initium ... est. quamvis ... continuatur ... et ... non valet ... textus ... seminar. 4 ff. de servis ... textus ... famil. 19 ff. ... et ... 1a. § ... ff. de ... lib. 1. § 1o. ff. de leg. 3. ... Cavedo tit. ... a filio famil. ... servi ... vacare esse ... si filius familias sui iuris factus decedat ... servi consecuta libertate ... textus ... tradita ... hoc ... textus ... Ideo ... de rescriptis 6 ... tempore quo beneficium vacat ... quo ... mandatum ... virtute illius mandati obtinere non potest ... textus ... infamatur. ... iuris in 6o. et ... ff. de ... iuris ubi ... ad scribentes ... que doctrina ... per textum ... videndis ... Decius ... repet. ad ... ind. cap. 2. ... Molina ... 1. de hisp. primogeniis, ...

Quarto sciendum quod beneficia ... vacantia dici illa quorum possessor ... extat, et vivit, vacantia ... que ... exemplo mulieris, que viri consultum vacantem ... que marito caret ... cetera § ... vacantes ff. ad leg. Iul. de vi publ. veluti quod possessor decedit aut ab hostibus captus ... 2o. vacat beneficium si sua sponte ... cap. 1. ne sede vacante cap. susceptum de rescriptis in 6. ... ex ... cessit, ut in toto tit. de renunt. ... hoc superioris autorit. fiat ... ad monet 4. de renunt. ... que causa nascitur ... cap. ex frequenti ... cap. ... de reg. iuris in decret. ... cum ad ... beneficiorum ... fieri debet exd. cap. admonet ... de ... cum similibus: ita ... renuntiatio in eiusdem manibus ... beneficio renuntiare ... de renunt. ... clericus, ... in beneficio erat institutus ... Trid. Conc. 3o. vacant beneficia ... mendicant ... cap. ... cap. de multa 28. de prebend. cap. ... aliud ... duobus dominis ... non potest ... ita ... cum vulgatis: aut ... 6. ... ad modum ... de clericis non resid. in 6. cum vulgatis: aut ... matrimonii cap. 2 ... exigentibus ex ratione textus ... cap. ... beneficium 4. de regularibus in 6: aut per ... professione ... cap. beneficium 4. de ... parrochialis ... aut ... annum non est promotus ad sacerdotium ... aut vacat ... aut de facto, aut de ... Canon cum vulgatis de elect. ... uno ... aut ... de facto quod ... vacationum modos, ... voluerit ... de ... tit. de varijs modis vacationum ... in praxi beneficiali tit. ... ad ... anno 49. ... de reb. beneficiar. ... 28. ... 3a. Cancellarius ... princ. ... de beneficijs ... cap. ... nulla proposuisse ... beneficiali ...

Marginal notes (left): ... promissio ... vacare ... ; quo cognito ... aporrexit ... Augustin. ... Trid. ... Gregorius ...

[illegible] iam [illegible] supra [illegible] rao [illegible] decisionis [illegible] dicat [illegible] nemo [illegible] primo beneficio [illegible] dotat. [illegible]
[illegible] ducerit [illegible] cap. inde [illegible] aliene [illegible] canonico prohibitie est [illegible] decisis [illegible]
[illegible] cap. [illegible] in 6. [illegible] successoris [illegible]
[illegible] hoc modo [illegible] de [illegible] rendahe [illegible] hereditate
cum [illegible] testimoniis [illegible] ab ant[illegible] in [illegible] turin[illegible]
[illegible] rationi accedit et illa ne[illegible] sicut Mulier plures Viros habere non potest cap. [illegible]
fin. de sponsalibus duorum cap. Dominus 2. de secundis nuptiis cap. in presentia de sponsalibus ita
nec ecclesia duos beneficiarios cap. sicut [illegible] cap. cum vnores [illegible] de prebend. [illegible]
Et sicut non potest quis eam Vxorem ducere quam prius polluit per adulterium cap. 2 cap. penult.
[illegible] qui duxit in matrimonium quam prius polluit per adulterium ita nec habere poterit beneficium
quod obtinuit Viuente possessore = accedit et [illegible] rationi decidendi et illa Con
sideratio quod sicut obligatio realis non consistit in re aliena l. 2 L. aliena 20. ff. de
pignoratitia act. [illegible] ff. de pignoribus ita nec beneficium Viuentis alteri dari aut
promitti potest cum beneficium sicut [illegible] rem esse [illegible] cap. [illegible] 17 [illegible] in 6.
Et [illegible] in obligatione personali que consistere potest in re aliena ideo [illegible] Venditio
Valet l. rei aliene 28. ff. de [illegible] explicant elegantius [illegible] fab.
lib. [illegible] semestrium cap. 17. [illegible] 20 [illegible] de minoribus [illegible] fab.
lib. 20 [illegible] cap. 17. [illegible] dubitandi rao [illegible] quam [illegible] prohibitio [illegible] lateranensis [illegible] inducta fuisse cum [illegible]
[illegible] Romanum [illegible] dubitasse de nullitate provisionis bene[illegible]
[illegible] Concilii lateranense, [illegible] effectu [illegible]
[illegible] interueniente scriptura [illegible]
[illegible]
[illegible] Cabarellae [illegible]
[illegible] dubitandi rao [illegible] Abbatis [illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]

[illegible] Decidendi rao in primis [illegible]
[illegible] ad [illegible] cum [illegible] Alexander 3us proponit
[illegible] quidem Archiepiscopus concedit beneficium non dum Vaccans quibusdam Canonicis
[illegible] promissione propria scriptura confirmavit Vaccauit beneficium, et ex virtute promi
ssionis [illegible] Archiepiscopi licentia Canonici ingressi fuerunt possess. Archiepiscopus [illegible]
[illegible] Videns [illegible] licentiam [illegible] esse [illegible] Romanum
Pontificem accesserunt qui [illegible] et rationibus et adminiculis [illegible] ut
[illegible] Archiepiscopus ecclesie predicte Canonicis [illegible] Virtute predicte
promissionis ideo male in presenti [illegible] Innocent. [illegible] asserit promissionem beneficii
non Vaccantis irritam esse, Cui difficultati respondendum est in d. cap. cum [illegible]
quando exceptionis [illegible] que si non essent inferiores prelati [illegible]

antiq. Vaccant concedere promisso tn. dum posse concedere Monasterio et iure ut
probant dd. incap. consultationibus 4 de donationibus clem.a de rebus ecclesiae non alienan.
et nonne, et ratio est, neque hic cessat ratio. Potius castando mentis alieni ex ordinant
meliori quae communiter possidentur. Sed cum secter 74 § dilectissimus ff. de leg. 1° quo
cum monasterio, aut ecclesiae alicui beneficium fit principaliter attenditur. Utilitas
illius Monasterii et ecclesiae cui necessario perpetuo providere oportet. Quemadmodum ... statuit
est inter casum quo particulari personae promissio beneficii non vacantis et inter eum quo ecclesiae
et monasterio conceditur. 1° casu non valet et caret, neque quando promisso efficitur beneficium
datur. ... et illius eius remaneat penes rectorem ecclesiae adhuc viventis ... transferri
non potest. At in 2° quod fit communitati ... facta iure proprietatis unde et
quamvis viventis est non transfertur, sed tantum ius proprietatis quod est penes concedentes
ita docet canonistarum ... cap. consultationibus 4 de donationibus ... destruit
sequenti considerationem impugno neque ex eo quod episcopus ... ecclesiae
beneficium viventis etiam, et post eius mortem ipsi ecclesiae concedatur, magnum damnum et magna
facta iniuria est huic beneficiario sequitur ei tollitur libera potestas permutandi
pred. beneficium et in gratiam alterius illud renuntiare. Sed huic difficultati respon-
dendum est dicendo ad unionem beneficii non desiderari consensum beneficium possidentis
sed sufficere episcopi voluntatem et capituli. Ut probant dd. incap. 2 de rebus ecclesiae
alienandis et non ex similibus neque praeiudicium quod fit possidenti nunc est considerabile
sequitur permutatio et resignatio beneficii ex superioris voluntate pendent
et sunt modi extraordinarii comparandi beneficia quare cedere publicae utilitati ...
debet. Utilitati communi itaque unio beneficiorum fit ita docent ... ind. cap.
... de concess. praebend., ... de incompatibilitate beneficiorum ... 2. cap. 3 n° 9
Sed adhuc intuito non sum opinator. Sequitur pred.a doct.a ex cap. illud ...
de iure patronatus ubi ... laicus patronus contulisse ecclesiae non vacans ...
et tamen ibi dicitur collationem ideo irritam fuisse quia huiusmodi ecclesia non ... vacans ...
superius adducta quae docebamur beneficium viventis posse promitti communitati ... non potest
Sed huic difficultati respondendum est, ideo in hac specie promissionis ecclesiae non vacantis
religioso loco facta non valere quia patronus voluit concedere hanc ecclesiam pred.
religioso ita habito promissio ... valeret ... praeiudicium rectoris legitime possidentis
Atque in specie d. cap. cum venissent q. de restitut. spoliatorum absque praeiudicio rectoris
et consensu episcopi promissio facta fuit quo casu valet absque dubio talis promissio
ut ... ex ... ind. cap. consultationibus de donationibus tradit eleganter ... Romae
... lib. 7. ad praecepta decalogi cap. 29 n°. 148 manet ergo pro comperto ...
religiosae beneficium non dum vaccans religioso loco offerre, et si verissimum
sit ... tamen ... ex concilio Tridenti ses. 24 de reformat.
cap. 13 non posse episcopum beneficium curatum seu aliam quamlibet dignitatem ... iure
patronatus seu alio loco religioso ... ind. cap. cum venissent
de restitut. spoliatorum dd. incap. 2. de rebus ecclesiae alienandis ...
... docent ... Sanctae ... Moneta de commutationibus ...
voluntatis cap. 11 n° 79.

Quero in foro interpretat. ad sac. conc. ex parte 12 de off. et potestat. judicis delegati, ubi prouatur sententia vaccature posse promitti, et talis promissio talis valida sit, ubi ait tex. recessu sustineri competens. S. dicendum in presenti, et valere predicte promissiones quia etsi inferiores prelati non possint beneficia vaccatura promittere ob predictam rationem, tamen Romanus Pontifex propter supremam ejus potestatem plenissimam in beneficialibus distributionibus non solum vaccantia, sed etiam non vaccantia conferre potest. cap. eamte 7. de rescriptis, sicque intelligendus hic tex. in d. cap. ex parte, et tex. conc. 4. cap. 2. statutum 12. de concess. preb. lib. 6. de prebendis et dignitatibus. lib. 6. et ad docent Quarenus et Gonzales locis supra allegatis. Sed hec solutio et sententia difficilis videtur, ex eo quod ratio propter quam prohibita est concessio seu promissio beneficiis vaccantis est, quia datur occasio mortis captande alienj, ut supra vidimus, et dicendi provenimus. Sed hec eadem ratio militat in Romani Pontificis concessione, ergo sicut inferiores tales concessiones facere non possunt, ita neque Summus Pontifex. S. nihilominus dicendum est Pontificem semper gratias expectativas et beneficium non dum vaccans concedere justis intervenientibus causis, causa cognita, et publica utilitate inspecta, et cum quoque in ipsis semper habeat periculum illud et occasio captande mortis alienj aut cessat aut propter bonum commune. Quod autem ex his promissionibus sumatur occasio mortis alienj captande, hoc non debet Romano Pontifici imputari, sed quis committente ex sua culpa hoc fecit, sed solum pravo animo impetrantis, sane difficultatem nulli sorgit in illum, quod vix ab ea recedam, si eam non ne doceret ... Porro addunt et illa consideratio, ne Summus Pontifex in tanto fastigio collocatus exemplum debet tribuere ceteris ecclesie prelatis leges et canones non contemnere ... ex traditis a Quarenus lib. 6. de sacris ecclesie ministeriis. S. dicendum illa ... potestatis quam Pontifex in causis beneficialibus habet, non ... tantis considerari, sed ad normam justitie et equitatis ne et princeps ... legis ... contineatur directive in ... et tradit ... ff. 6 art. 3. Unde et princeps legibus solutus sit, ff. de legibus, attamen ... leges vivere debet, tex. in ... Donatus ... Deo ... similiter ergo Pontifex numquam vult, sed que secundum jus sunt licita vult facere. Et licet summi ecclesie temporibus non consueverant expectativas ad vaccatura concedere, ut docet Joannes Andreas in cap. duobus de rescriptis, postea vero posteriores Pontifices Innocentius 3. scilicet Gregorius 9. Bonifacius 8. us et Clemens 5. us ea potestate uti ceperunt, ita docent Rebuffus ... et Sanches ... loco supra allegato. Deinde in foro interpretatum ad sac. conc. relatum q. de officio ... de prebendis et dignitatibus, ubi quidem in canonicum ... receptus, cui ab episcopo promissio facta ... de prebenda vaccatura, et interim assignavit ei quandam portionem post mortem vaccantis prebende, et archiepiscopus ... adimplere promissionem canonicus ... ad Romanum Pontificem accessit, scilicet Alexander 3. us qui asserit ... et cum canonicus fuit in canonicum et ei fuit facta promissio beneficii vaccaturi tenebitur episcopus adimplere promissionem ... debet canonicus ad predictas dignitates ergo ... in presenti ...

Et nisi anteriorem asserit promiss. beneficij pro dicta vacatione nullus esse. Cui difficul-
tati respondendum est asserendo adeo ind. cap. relatum promissionem illam validam, et
quae procedit in eo Casu quo quis de Canonicatu provisus erat et hinc cujusmodi in Canonicum
esset receptus, valiter ei promitti potest praebenda 1a vacatura ratio est quia cum
prohibitio incompatibilitatis ab homine facta tantum procedit non a lege et illa promissio
ideo quae ind. cap. relatum fuit facta recepto in Canonicum magis a lege quam ab homine
censetur facta, unde mirum non est si validi promissio [illegible] prohibitione sit ab homine
ita docent Abbas et Anchar. ind. cap. relatum et aliter explicat Decius qui
sensit existimans [illegible] ind. cap. relatum dignitatem Canonico recepto deberi ex lege antecedentis
potius quam ex vi generalis promissionis cujus sententia manifeste procedenda
videtur. Ind. cap. relatum neque hanc interpretationem oppugnare videtur. Deinde ind. cap.
eodem titulo. Ubi prohiberi videtur promissio praebendae 1a vacaturae etiam recepto
in Canonicum in utroque esse exceptis. Spectare praebendam vacaturam repugnat decreto
nostro ideo neque dicendum est promissionem de qua ind. cap. dilectis ideo inutilem esse quia
facta fuit non in consequentia receptionis in Canonicum sed potius principaliter et
ante receptionem fuit enim facta in compositione et patet ex verbis ipsius textus in ante
dicta receptione et ideo cum non fuisset a lege sed solum ab homine fuit invalida
talis promissio tamquam repugnans. Nostro textus prohibitioni ita docent Innoc.
et Decius ind. cap. relatum de praebendis et dignitatibus = Per hoc interpretationem et solutionem
quae proponimus ad textum ind. cap. relatum de praebendis et dignitatibus impugnari ex textu
in cap. quia [illegible] et excep. de liber. 25. eodem titulo de praebendis et dignitatibus. Ubi videtur
probari quod etiam ratione receptionis in Canonicum non potest receptus praebendam 1a vaca-
turam consequi quae difficultas adeo gravis visa fuit Decio ind. cap. relato
11. Ut ea insoluta reliquerit. Dictare dicendum est ind. textu non improbari
spectationem praebendae 1a vacaturae in genere de qua nos loquimur sed tantum
speciem id est certi hominis quod aperte colligitur ex ipsis verbis in quibus pro-
hibetur duos spectare canonicos praebendam ad quam simul electi fuerint quae electiones
lex reiicit. Utrique praebendam denegat. De praebendarum de re. Quaesito a Curonensis
Concilij decreta de quo extat mentio in cap. maioribus et cap. avaritia de
praebendis et dignitatibus neque etiam alteri tantum ne forte obnoxiat alteri ma-
lam spectationem praebendae eiusdem post mortem. Quae solutionem tradit [illegible]
in collectaneis ad textum in cap. relatum n.o 1.

Deinceps inferendo interpretationem
ad textum in cap. dilectis 28 de iure patronatus. Ubi probatur reservationem primae praebendae
vacaturae facta a legato a latere validam esse ideo idem dicendum videretur
promissionem praebendae 1a vacaturae. Cum reservatio in favorem certae personae vim
promissionis obtineat. Cui difficultati respondendum est discrimen
tenendum inter promissionem et reservationem praebendae 1a vacaturae. Nam
si legatus a latere [illegible] nostro textu prohibetur promissionem promittere neque
conferre praebendam 1a vacaturam cap. dilectis de praebendis tamen
reservare

reservare, prouendis non vacantibus exceptis aliquibus casibus de quibus in cap. 3 et 4 de officio Legati in 6° ita docent Hostiensis, Zabarella et Panormitanus in d. cap. dilectus 28. de iure patronatus cum pluribus [illegible] relatis a Garcia de beneficiis. Ubi sup.a ratio discriminis inter promissionem et reservationem est, quia per promissionem et collationem beneficij vacaturi [illegible] ius prouisio. Et ideo votum captandae mortis alienae potest timeri [illegible] per reservationem, allegato facto, nullum ius acquiritur, et propterea fit reservatio et [illegible] cessat periculum mortis prohibitio [illegible] cessare debet. ita Panormitanus [illegible] n°. 9. Cum distinctio potius videbatur procedere in reservatione generali [illegible] an speciali quia in speciali tacite [illegible] videtur promissio, [illegible] reservatur [illegible] votis captandae mortis aliens pariter [illegible] difficultas [illegible] Hostiensis in d. c. dilectus [illegible] specialis reservationis legati Apostolici [illegible] alter beneficij reservati [illegible] commutare [illegible] tit. ff. de [illegible] expectandis [illegible] periculo [illegible] reservati [illegible]

Ad tit. de reb. ecclesiæ alien. vel non

Schedæ. 33.

Ad Titulum de rebus Ecclesiae alienandis vel non solemnis Academica explanatio.

Ad Rubricam.

n. 1.

Tractatum de prohibita alienatione rerum Ecclesiae ex Academico instituto hodie illustrandum suscipimus Clarissimi ac amantissimi auditores. Cuius circa varia, et multiplici dispositione refertus numerosa interpretum tractatus [illegible] sibi in titulo de rebus Ecclesiae alienandis vel non, [illegible], qui [illegible] famigerantur multa [illegible] Conflictus [illegible] rebus Ecclesiae scribunt, alii amplissimam difficilem [illegible] controversiis super alienationibus exortis multis [illegible] ex [illegible] definitis [illegible]. Nos vero [illegible] sacris Canonibus [illegible] recitatis [illegible] in singulos [illegible] decretalium solemniter [illegible] in quibus explanandis [illegible] operam [illegible], itaque Deum [illegible] oramus =

n. 2.

Igitur ut maiorum vestigia sequamur, [illegible] facile [illegible] explicemus, [illegible] legitimis [illegible] interpretes [illegible] nulla proponere [illegible] ante [illegible] rubricae diversimode [illegible] tituli [illegible] operis [illegible]. itaque in primis observandum est rubricae [illegible] rebus [illegible] aliis [illegible] de rebus Ecclesiae alienandis [illegible] existimant, quemadmodum habetur in [illegible] decretalium, [illegible] extravagantibus, nec [illegible] 24. [illegible] exemplo [illegible] regulariter et prohibitiva [illegible] Canonibus alienatio [illegible] ut infra [illegible] excessus [illegible] regulam [illegible] ita [illegible] finali [illegible] decreto [illegible] alienandis, et [illegible] de [illegible], et alii [illegible] sine decreto [illegible] idem in rebus Ecclesiae [illegible], cum [illegible] minoris [illegible] capitulo [illegible] 7. n. 4. Gerardus in [illegible] 20 [illegible] Moria [illegible] loco 74. Emmanuel [illegible] Joannes [illegible] 5. [illegible] Complutensis [illegible] rubrica [illegible] Francus, Immola, [illegible] Aretinus, et [illegible] Abbas [illegible] 3. [illegible] 31. [illegible] n. 49. et alii plures, quos refert, [illegible] = Alii [illegible] de rebus Ecclesiae alienandis, vel non [illegible] 3. [illegible] tradatur, [illegible] 2. 4. 5. et 6. [illegible] 3. [illegible] 7 cap. [illegible] in quibus [illegible] alienatio [illegible] inscriptionem rubricae de rebus Ecclesiae alienandis vel non, [illegible] quale [illegible] animadvertit [illegible] 13. et [illegible] =

n. 3.

Hinc provenit animadvertendum [illegible] interdictum [illegible] prohibitionis [illegible] alienentur ut [illegible] 7. [illegible] 9. 3. ibi nam cum Episcopi [illegible] aut Abbas, aut tale aliquid [illegible] Corporalibus [illegible] quentia, [illegible] ne omnino [illegible] 12. q. 2. ut [illegible] 8. [illegible] 7. [illegible] 13. [illegible] finali [illegible] legatis [illegible] 21. [illegible] ut [illegible] Chronicus [illegible] spiritualibus [illegible] maria [illegible] et similia. =

n. 4.

Hoc supposito et explicato circa rubricae inscriptionem, [illegible] animadvertimus in primis illud [illegible] rebus [illegible] significat [illegible] Cicerone [illegible] 1. [illegible] familiis [illegible]

[illegible]

bona mobilia et immobilia

et etiam [illegible] appellatione [illegible] n.o 11.

quaesque ex propatrimonio [illegible] l. 1.a [illegible] ff. de verb. signif. [illegible] tutelae fore, et pro obligat. [illegible] et [illegible] magis [illegible] copula [illegible], [illegible] sponsa [illegible] latis bonorum Corporalia, et incorporalia, iura, et actiones et nomina debitorum [illegible], l. rei [illegible] l. nomina 6. [illegible] ff. [illegible] petatur. l. 1. ff. haereditatis [illegible] de rebus Corporalibus et incorporalibus [illegible] Brissonius, et [illegible] Pratius de verborum [illegible], Conanus lib. 3. [illegible] [illegible] de rebus [illegible] ecclesiasticarum [illegible] n.o 60, et alii; Pinellus in [illegible] [illegible] quemadmodum appellatione bonorum [illegible], tam bona mobilia, et immobilia, iura [illegible] nomina debitorum [illegible] l. bonorum 49. ff. de V. [illegible] Guillelmus Benedictus [illegible] bona [illegible]. Tiraquellus [illegible] bona [illegible] Barbosa in l. si Constante §. [illegible] n.o 2. [illegible] solut. matrim. [illegible] et [illegible] appellatione [illegible], quam [illegible] huius [illegible] rei, et [illegible] bona, ut [illegible] Pinellus ubi [illegible] = Ex quo sequitur in hac [illegible] comprehendi [illegible] Corporalia et incorporalia et actiones, immobilia, et mobilia, [illegible] ut Vasa aurea, et argentea, [illegible] [illegible] similia, quae [illegible] sint immobilia [illegible] solemnitate, et urgente necessitate [illegible] cap. [illegible] 12. q. 2. [illegible] cap. [illegible] [illegible] hoc [illegible], auth. de [illegible] §. [illegible] [illegible] frumentum, [illegible] [illegible] [illegible] [illegible] 2. var. cap. 6. n.o 7. et 8. [illegible] Greg. [illegible] par. [illegible] 9. cap. [illegible] =

N.o 5.

Nec huic resolutioni quidquam obstant [illegible] in l. a [illegible] Pio 15. §. [illegible] [illegible] haereditate [illegible], l. quam Tuberonis 7. §. in peculio ff. de peculio [illegible] res mobiles et soli, et ibi [illegible] debitorum, in quibus [illegible] videtur appellatione bonorum nomina debitorum [illegible], quoniam [illegible] procedere [illegible] appellationi bonorum adiicitur qualitas mobilium aut immobilium, tunc nomina [illegible] [illegible] diversam speciem; secus [illegible] appellatio bonorum simpliciter [illegible] [illegible] §. [illegible] n.o 7. et docet Pinellus ubi [illegible] = Nec magis urget [illegible] ff. de [illegible] bonorum in [illegible] actiones [illegible], [illegible] Pinellus ubi [illegible] 10. [illegible] quando in appellatione bonorum adiicitur [illegible] ad Certum Locum, veluti [illegible] omnia bona vel [illegible], quae in tali domo [illegible], tunc enim [illegible] iura et actiones, quoniam Certo loco [illegible] [illegible] ad [illegible] de [illegible] a [illegible] Pio §. [illegible] n.o 6. ff. de [illegible] = [illegible] nostris [illegible] [illegible] 7. §. [illegible] ff. de fundo [illegible] [illegible] [illegible] Cuiacius et [illegible] [illegible] [illegible] 92. §. [illegible] ff. [illegible] =

N.o 6.

[illegible] in ultimo [illegible]. Cuius [illegible] dem [illegible] rei ab Origine repetentes animadvertimus [illegible] [illegible] [illegible] separata, in quibus fideles [illegible], et [illegible] ad Deum fundebant, [illegible] divinum audiebant, percipiebant, ac denique [illegible] reliquias servabant, et venerabantur; [illegible] [illegible] ex epist. [illegible] Pauli ad Corinthios cap. 11. et tradit Tertullianus de Corona militis cap. 3. [illegible] Patres et Canones [illegible]; nam [illegible] offertur, et [illegible] ad Deum fundantur [illegible] Paulus 1. ad Corinthios cap. 3. [illegible] [illegible] historiae [illegible] cap. 4. Theodoretus lib. 3. cap. 2.o, [illegible] domus Dei nominabantur [illegible] cap. 11. [illegible] tradit Nicephorus Callistus lib. 2. [illegible] cap. 38. [illegible] cap. [illegible] 7. [illegible] Oratoria [illegible] dominica, [illegible] dicata et Consecrata, ut [illegible] orationi [illegible] [illegible] [illegible] docet [illegible] cap. [illegible] = [illegible] [illegible] Eucharistica Sacramenta Basilicae nominabantur, [illegible] 9. [illegible] basilica 10. [illegible] cap. [illegible] basilicae 3. cap. basilicas, 6. cap. [illegible] basilicas 10 de Consecratione dist. 1.a; et [illegible] Custodia, et veneratio Sanctorum martirum, [illegible] loca martiria [illegible] [illegible] cap. 10, [illegible] [illegible] C. de [illegible] lib. 3. cap. [illegible] [illegible] Bellarminus lib. 3. de [illegible] Sanctorum cap. 4. = Verum quocunque nomine [illegible] loca sacra [illegible]

[illegible] Episcopi vel ejus auth. edificari debeat cap. nobis 25. de jure patronatus cap. ad hec de religiosis domibus, cap. quidam 10. [illegible] q. 2. cap. [illegible] 3. [illegible] 5. L. 3. tit. 14. [illegible] recopilationis [illegible] quos tradunt Barbosa de [illegible] 26. n. 1. Thomas Sanchez lib. 6. [illegible] moralis [illegible] dub. 7 [illegible] =

n.º 7.

Quo animadverso dicimus [illegible] ecclesias [illegible] que [illegible] quacumque, [illegible] aliquam societatem religiosam, [illegible] canonice habere de quibus in cap. Legitimus 24. q. [illegible] cap. [illegible] 24. q. 1. cap. Catholica [illegible] cap. multa [illegible] 19. [illegible] cap. qui [illegible] 22. q. 2. [illegible] cap. 1. [illegible] de novo [illegible] cap. quoniam [illegible] [illegible] L. penult. et ult. C. de [illegible] [illegible] C. de [illegible] L. 1. tit. 10. [illegible] [illegible] tradunt [illegible] Bellarminus lib. [illegible] de ecclesia militante cap. [illegible] Gregorius [illegible] lib. 2. [illegible] cap. [illegible] n.º 1.º et lib. 1. [illegible] cap. [illegible] Simancas de Catholicis [illegible] tit. 24. [illegible] Remigius de immunitate ecclesiarum ampliat. [illegible] Durandus [illegible] [illegible] et [illegible] [illegible] materia [illegible] datus, et consecratus divino cultui, ubi fideles congregantur, [illegible] occurrere, ut [illegible] cap. nemo [illegible] cap. [illegible] 13. cap. [illegible] 18. cap. [illegible] 28. de consecrat. dist. [illegible] sacrosanctas [illegible] [illegible] de immunitate ecclesiarum, cap. 1. de [illegible] 12. [illegible] lege sequenti C. de [illegible] L. 2. C. de his qui ad [illegible] L. 1. tit. 10. [illegible] L. 1. tit. 24. [illegible] [illegible] Romana, cap. [illegible] licet [illegible] [illegible] [illegible] parrochialis cap. 1. et [illegible] cap. [illegible] 12. q. 2. [illegible] [illegible] monialis [illegible] 40. 27. q. 4. cap. [illegible] 22. [illegible] [illegible] 25. [illegible] 7. =

n.º 8.

[illegible] sub nomine interdicto [illegible] Hospitalia [illegible] dochia, Confraternitates, et reliqua [illegible] religiosa, [illegible] [illegible] privilegiis [illegible] [illegible] authent. [illegible] probari [illegible] ex [illegible] privilegia 35. C. de [illegible] ex auth. de ecclesiasticis [illegible] pro temporalibus [illegible] auth. hoc jus [illegible] C. de [illegible] [illegible] 22. cap. 11. [illegible] Confraternitates [illegible] [illegible] 22. Cabb. [illegible] 8. 2. [illegible] Anastasius [illegible] tit. 3. cap. 16. [illegible] [illegible] [illegible] verior [illegible] docet Confraternitates, Hospitalia [illegible] [illegible] absque Episcopi authoritate nec sacra [illegible] privata [illegible] [illegible] privilegiis, immunitatibus [illegible] [illegible] cap. quidam 10. [illegible] q. 2. [illegible] oratorijs, [illegible] [illegible] opinionem [illegible] [illegible] Capitulis [illegible] cap. [illegible] 10. [illegible] [illegible] Joannes [illegible] lib. 1. Canonicarum [illegible] cap. 35. n.º 16. [illegible] [illegible] de [illegible] hospitalium. =

n.º 9.

[illegible] [illegible] [illegible] authoritate cap. nemo [illegible] de consecrat. dist. 1. cap. quidam 10 [illegible] q. [illegible] cap. [illegible] [illegible] [illegible] multo magis [illegible] [illegible] Xenodochij, vel [illegible] Fraterni [illegible] de religiosis domibus [illegible] quandoque tamen hospitalia [illegible] [illegible] superioris licentia construuntur, [illegible] [illegible] Oratoris, nec Capella ad divina recitanda [illegible] celebranda [illegible] talis locus [illegible] [illegible] aut secularis [illegible] cap. quidam [illegible] [illegible] talibus [illegible] destruitur [illegible] [illegible] religiosis domibus, nec immunitate [illegible] docent Remigius [illegible] [illegible] tit. 2. [illegible] 2.º n.º 4. = Nec [illegible] [illegible] [illegible] Episcopi, et clerici, [illegible] [illegible] Hospitalia [illegible] [illegible] privilegijs, quibus gaudet [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

n.º 10

[illegible] [illegible] [illegible] [illegible] [illegible] privata [illegible] privilegia [illegible] [illegible] [illegible]

cuius excessus, ut probat gl. in verbo lecta in clem. 1. de in integrum restit. quae expresse ait restitutionem in integrum ecclesiis exhibenti minoris, neque quam exterae personae ecclesiis melius ... in cap. possessor. verbo ... 6. 7. quod res clericorum gaudere privilegio praescriptionis quo gaudent res ecclesiae, nam clericorum bona triginta annis praescribuntur cap. dando de praescriptionibus, bona ecclesiae vero non praescribi nisi quadraginta annis ... 15. 9. 4. Panormitanus, Felinus et Decius in cap. ... de ... de testamentis ... = Quamvis namque etiam ...

eisdem privilegiis potiri quibus ecclesiae bona potiuntur, cum haec ad ... divinum ... rebus instituta sint illae ... adquiruntur ... usum clericorum vero destinantur ... ad ... transmittuntur, ... Covarr. in cap. ... et lib. 1. var. cap. ... n. 3. quibus ... affirmat ... patrimonio ... sacros ordines receperunt ut sub ... titulo ... dignitatibus, ubi ... tales res ... alienari posse ... praesumitur ... 1939. ... in hoc ... observari ... n. 4. Joannes Gutierres lib. 2 pract. q. 65. n. 10 Menchaca de success. creat. n. 43. = ... d. ... cap. ... universaliter ... bona illa ad quorum ... vendi ... donec ... et aliis ... advertit ... in l. ... 24. ... hodie ... illa bona ... quibus ... in integrum ... capituli ... nec ... Jacobus ... et ... certa ... persona ... tit. de Contract. ... in cap. ... Clericos ... Ezechiel ... in cap. ... realiter =

n. 11

Denique ex alienandi ... quid aliena ... ponendo illa ... alienandi ... ubi alienatio ... dominium significat ... l. alienat. 67. ff. de ... et ... per quam dominium transfertur ... l. ... C. de fundo dotali ... auth. ... debere ... alienatio ... ususfructus ... hypothecae ... = ... prohibitio ... solet, aut ... aut ... Lege l. ult. C. de reb. alien. ... judicatum ... Donellus lib. 9 comment. cap. 10 ... prohibetur simpliciter ... testator ... fundum alienari, prohibitio haec nullius momenti ... Dd. ... Severus et Antoninus ... l. ... 93. ff. de legatis 3. ... testator ... Molina lib. 1. de Hisp. primog. cap. 6. n. 9. ... Alienatio conventione ... dicitur ... ad certas personas ... distat ... prohibitio ... alienatio ... impediatur ... Molina lib. 1. de primogen. cap. 10. n. 40. ... =

n. 12

... alienationis ... interdicto ... multis ... alienatio ... ut prodigiis ... pupillis ... auth. ... filiis familias ... minoribus ... fundo dotali ...

... alienandi ...

... explicatum ...

: ... :

: ... :

: ... :

: ... :

[illegible]

Additur in cap. ... de rebus ecclesiae ... alienandis vel non ...

= Ad [illegible] de [illegible] =

= [illegible] =

Nostrum Caput [illegible] de [illegible] ex Concilio Lugdunensi cap. [illegible] quæ tradit [illegible] Augustinus [illegible] Collect. [illegible] talis [illegible] 3. [illegible] cap. [illegible] adlandus Collect. [illegible] cap. [illegible] ubi allios [illegible] Senatores, varie [illegible] [illegible] hoc modo [illegible] vel Abbati, [illegible] hoc modo [illegible] licet ep[isco]po vel [illegible] [illegible] lectura veriore [illegible] confirmatur [illegible] hac lectura [illegible] frequenter [illegible] [illegible] mentio fit Abbatis, ut probant [illegible] cap. 2. [illegible] cap. finali de [illegible] ordinarij [illegible] 6. cap. [illegible] [illegible] 2. quoniam [illegible] maior honor [illegible] beatur, qui in primo loco nominantur [illegible] pater [illegible] [illegible] generaliter [illegible] de [illegible] libertatis, [illegible] alios [illegible] tradit [illegible] 2. de appellationibus cap. 3. [illegible] 47 [illegible] recte scriberetur Priori vel Abbati, siquidem Abba[illegible] tamen dignit[atis] [illegible] maior [illegible] debebat nominari, ut accidit, [illegible] cap. [illegible] [illegible] cap. [illegible] monachorum [illegible] Abbatis Clarissima dignitas ut notat Marcus Antonius [illegible] 3. [illegible] maior [illegible] 3. de qua [illegible] Emanuel [illegible] regul[illegible] [illegible] 22. art. [illegible] Corradus [illegible] 2 cap. 7. [illegible] Barbosa [illegible] de [illegible] Abbatis [illegible] in [illegible] capitulis. =

[illegible] 2

Hac posteriori lectione admissa, ut admittenda [illegible] acceptamus, illud unum animadvertimus, [illegible] de [illegible] generale [illegible] Parrochiis [illegible] [illegible] Clericos [illegible] veritate [illegible] cap. [illegible] [illegible] magis [illegible] de [illegible] Clericorum [illegible] 3. [illegible] nomine [illegible] diversis [illegible] nomine, [illegible] alij [illegible], alij Rectores, alij [illegible], alij [illegible] alij guardiani [illegible] [illegible] ut recte notant Marcus Antonius [illegible] maior [illegible] Emanuel [illegible] [illegible] de Abbatis [illegible] [illegible] animadvertit. =

[illegible] 3.

[illegible] Abbati [illegible] unius [illegible] vertere [illegible] permissi [illegible] [illegible] superioris, et [illegible] ex quo decreto [illegible] alterius prohibitum, alterum permi[illegible] [illegible] vertere [illegible] [illegible] cap. [illegible] 6. [illegible] cap. [illegible] finali de [illegible] cap. [illegible] Ecclesiis quæ [illegible] Abbati [illegible] 6. de [illegible] exceptionis [illegible] cap. [illegible] 7. cap. [illegible] cap. [illegible] cap. [illegible] de [illegible] Veneti [illegible] [illegible] cap. 2. [illegible] cap. 2. [illegible] cap. [illegible] cap. [illegible] de [illegible] permutatione [illegible] [illegible] ordinarios [illegible] [illegible] Corradus [illegible] 2. [illegible] 27. [illegible] 29. Corradus in templo [illegible] 2. [illegible] Barbosa [illegible] [illegible] 95. [illegible] 55. [illegible] sequitur [illegible] Collectitur [illegible] =

[illegible] 4.

Similiter [illegible] Veneti [illegible] sequentem [illegible] dubitandus [illegible] in [illegible] cap. [illegible] 4. [illegible] cap. [illegible] 27 [illegible] [illegible] habere [illegible] [illegible] cap. [illegible] 3. cap. [illegible] 4. [illegible] 24. [illegible] cap. [illegible] 7. [illegible] 24 de reformat. [illegible] de [illegible] ordinariis [illegible] [illegible] cap. [illegible] [illegible] [illegible] = [illegible]

In Codicibus

[illegible]

districtionum

[illegible] in [illegible] sermonis [illegible] [illegible] quæ [illegible] [illegible] [illegible] 40 [illegible] 33. [illegible] Cancelarius [illegible] =

Maxime quod Deus in Eccl[esi]a... adversus humanos ... redeat, et ne divinus cultus diminuatur, et ministri ... eccl[esi]ae ... Apostoli ... dignitatis ... religionis ... capitulo ... quod semper ... in dominio ecc[lesi]ae ... aliquem ... res ... eccl[esi]ae ... quamvis in ... per ... illud ... =

N.° 5

Hac dubitatione ... non obstante ... duplex ... eccl[esi]ae ... quilibet ... alienatione ... decretum ... realiter ... ampliatione prohibitionis alienationis ... rerum ... Trident. sess. ... cap. 11 ... prohibitio ... locus habeat ... Cualterius ... naturali ... abhorret ... Consultationum ... res ... eccl[esi]ae ... consecrata ... capitulo ... Suarez ... ecc[lesi]ae ...

N.° 6

... dominium ecc[lesi]ae ... cap. ... de donat. ... procurator ... vel administrator ... cap. ... 57 ... tutor ... obligata ... pupilli ... Simancas ... de pignoribus, ubi docetur quod sicuti bona tutoris sunt tacite obligata pro rebus pupilli ... pignus vel hypotheca tacite habetur ... Joannes Gutierres de tutoribus cap. ... in ... membro ... n.° 5. ... eodem tractatu cap. 7 ... n.° 42. Negusantius de pignoribus 2.ª p. membro ... n.° 5 ... similiter ... sunt tacite obligata pro mala administratione ... quamvis ... Abbatem Panormitanum notabilem dicunt Palacios ... in repetitione ... de donationibus inter ... § 66 n.° 21. Negusantius de pignoribus 2.ª p. principali membro ... n.° 21 =

N.° 7

Porro ... Praelatus Curator ecc[lesi]ae ... tremgerunt L. Curatores § ... de administrat. ... donandi aut alio modo dispandi res ecc[lesi]ae ... quia administratio ... ecc[lesi]ae meliorem faciat ... cap. 2.° de donationibus ... ecc[lesi]ae ... administrator ... donat ... spoliator. Et similiter tutor in rebus ... Dominicus L. ... § penult. ff. de ... tutor 27 ... administrat. tut. ... ad ... ligendis et administrat. ... L. qui fundus 7. § si tutor ff. pro emptore ... similiter ... manumittit L. ... de manumissionibus ... 22 C. de ... quia ... species donat. ... ad administrationem ... L. ... § 1.° quis ... non obligando ... sicut ... § ... quibus modis pignus ... similiter ... 22 ... de transactionibus, non donare idem reputatur ... L. filius familias de donationibus nec tantum procurator alienare ... procurator ... de procuratoribus ... decidendo ... aliis ... tam ... =

N.° 8

Qua decidendi ... sic tradita ... obstat dubitandi ... ta, ... Apostolos duplicem habuisse potestatem delegatam, ... extraordinariam, ordinariam, delegatam in universum orbem, ordinariam in singulis Civitatibus vel provinciis ... Jacobus 47 de consecrat. dist. ... delegata ... generalis ... miraculis ... Scripturae ... Lucae ... Matthaei 28, Joannis 3 ... in ... nova ... 29 ... delegatam ... authoritatibus ... constat ... Apostolorum persona ... quam ... Apostolos ... Apostolorum ... potestatem ... ecc[lesi]ae ... intelligendi ... necessitatibus ... fidelis ... ut ... probat ... eccl[esi]ae ...

contrarium praecipit ut late explicavimus et exposuimus in cap. nullus [illegible] = Nec quidquam interest cum authoritatibus in argumentum adductis dicere ipsos Dominos [illegible] ecclesiae, nam hoc est intelligendum in personis [illegible] recte administret, ordinet, et defendat, [illegible] dispensent et alienent pro suae voluntatis arbitrio sine causa, et debita [illegible] solemnitate, ut [illegible] intelligenda probant; Ac etiam si diximus [illegible] conditionem ecclesiarum recte poni [illegible] deteriorare [illegible], ut probant ultra iam citatos, [illegible] in cap. [illegible] de [illegible] [illegible] 57. de off. et pot. iudicis delegati cap. [illegible] [illegible] Cardinalis [illegible] [illegible] 2. 23. Panormitanus [illegible]

[illegible] Immola et Decius [illegible] 4. [illegible] alios [illegible] 9. [illegible] Sintagmatis [illegible] 12. = [illegible] omnis [illegible] superiori modo [illegible] ita plene, et [illegible] ecclesiarum [illegible] gubernatio [illegible] vel fortasse a fundatoribus capellis, vel beneficiis, [illegible] [illegible] ut frequenter solet fieri, nullius [illegible] momenti tamquam [illegible] repugnans, [illegible] Licet testator [illegible] ad libitum [illegible] [illegible] [illegible] disponat testator [illegible] L. 1. C. de [illegible] Voluntatis [illegible] L. nemo [illegible] de leg. 1. [illegible] nemo [illegible] [illegible] [illegible]. Similiter [illegible] testamenti executor [illegible] cap. [illegible] 15. in [illegible] 17. de [illegible] [illegible] 23. c. 4. [illegible] intelligendus [illegible] cap. [illegible] [illegible] patronatus, [illegible] Panormitanus in cap. [illegible] 22. [illegible] [illegible] 9. [illegible] § 1. [illegible] Lambertinus de iure patronatus [illegible] 2. [illegible] principali [illegible] = Animadvertit [illegible] [illegible] [illegible] patronalibus laicalibus, qui vulgo dicuntur patronatus [illegible] [illegible] semel [illegible] [illegible] [illegible] [illegible], ut [illegible] [illegible] et experientia [illegible] demonstravit = Nec aliquid [illegible] [illegible] [illegible] adducta, [illegible] licet quaecumque ecclesiarum res ad alterum transmittantur, [illegible] prohibitionem [illegible] quia [illegible] dominio ecclesiarum [illegible] remanet, [illegible] [illegible] [illegible] [illegible] habeat, et [illegible] [illegible] ut [illegible], [illegible] [illegible] accedat [illegible]

n° 10

[illegible] Concilii Toletani [illegible] [illegible] fratibus in cap. [illegible] 74. 125. [illegible] ubi decernitur [illegible] [illegible] unius ecclesiae rem alteri ecclesiae, vel monasterio donare, [illegible] ecclesiarum [illegible] [illegible] [illegible] decisio = Verum ut ab hac difficultate liberemur, [illegible] Verum [illegible] [illegible] 16. [illegible] animadvertimus, olim [illegible] monachorum et [illegible] monasteria [illegible] potestati [illegible] [illegible] cap. Abbates 16. cap. monasteria 17. cap. [illegible] 19. [illegible] specialis privilegio [illegible] ut [illegible] [illegible] [illegible] [illegible] cap. ex [illegible] de privilegiis, [illegible] regulari [illegible] [illegible] ordinarij [illegible] [illegible] [illegible] Rodriguez [illegible] regularium [illegible] [illegible] Barbosa [illegible] [illegible] 105 [illegible] 107 [illegible] [illegible] cap. [illegible] [illegible] [illegible] denique Tamburinus [illegible] Abbatis [illegible] [illegible] = Ex quo [illegible] nullum monasterium [illegible] [illegible] authoritate [illegible] [illegible] [illegible] cap. de monachis [illegible] [illegible] [illegible] [illegible] cap. 9. [illegible] [illegible] [illegible] de religiosis [illegible] cap. 17. [illegible] de beneficiis [illegible] [illegible] semel [illegible] [illegible] cap. [illegible] cap. [illegible] [illegible] [illegible] [illegible] [illegible] Barbosa de [illegible] [illegible] cap. 22. [illegible] = [illegible] [illegible] [illegible] eandem [illegible] erga monachos, et monasteria, [illegible] erga clericos, [illegible] seculares, [illegible] [illegible] [illegible] seculares [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] cap. [illegible] [illegible] valent [illegible] [illegible] [illegible] animadvertit Moneta [illegible] cap. [illegible] 34. =

n° 11

Verum olim [illegible] [illegible] [illegible] [illegible] quantum monasterij [illegible] ecclesiarum [illegible], [illegible] [illegible] cap. [illegible] [illegible] [illegible] monasterijs [illegible] [illegible] [illegible] [illegible] seculares [illegible] quae [illegible] fundaverint et erexerint, vel iam erecta et fundata [illegible] seculares [illegible] [illegible] [illegible] donare [illegible] ut [illegible], [illegible] et [illegible] monasterio [illegible] [illegible] [illegible] [illegible] ecclesiarum [illegible] valerent donare [illegible] [illegible] [illegible] [illegible] Abbates [illegible] monasteriis [illegible] [illegible] subsidijs [illegible] ecclesiarum [illegible] [illegible] gravibus [illegible] [illegible] [illegible] pastoralis [illegible] [illegible] cap. [illegible] [illegible] [illegible] 4. [illegible] 4. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] nullam [illegible] [illegible] [illegible] unica [illegible] de [illegible] 20. = [illegible] voluerint ultra [illegible] [illegible] [illegible] facultas a Romano Pontifice impetrari [illegible] cap. [illegible] de appellationibus [illegible] [illegible]

+ [illegible] [illegible] cap. [illegible] [illegible] 17. [illegible]

+ = 12. q. 2

[illegible] summa [illegible] providere. [illegible] repugnant Canonica [illegible] nullus [illegible]

quia [illegible] de legib. et quamvis [illegible] in donando [illegible] excederet taxas, [illegible]

[illegible] sequetur [illegible] sive in possessionibus, sive in proventibus ad mensas episcopalis vel Cathedralis [illegible]

[illegible] revocari [illegible] cap. [illegible] quae pro tractu [illegible] inducta [illegible]

[illegible] potestatis, ideo non debet in eius detrimentum retorqueri, cap. [illegible] de R. I. [illegible]

[illegible] de minoribus. [illegible] licet episcopus [illegible] Devere, [illegible]

[illegible] interveniente donatio facere [illegible] dicti Capituli [illegible]

[illegible] Sanctorum templorum, ut ita [illegible] invitarentur ad aedificandas [illegible]

[illegible] debent, [illegible] de [illegible] consecrat. eccl. vel altaris [illegible] consecrat.

[illegible] post antiquiores [illegible]

n. [illegible]

[illegible] quatenus [illegible] Capituli [illegible] Conservan[illegible]

[illegible] monasterio, vel alteri eccl. donandi [illegible] cap. [illegible] 73. 12 [illegible]

Volens [illegible] parrochialibus [illegible] monasterio [illegible] monachorum [illegible]

[illegible] aliquid donare [illegible] Capituli [illegible] — *[margin:] [illegible] subjectis*

[illegible] monasterio, vel alteri eccl. [illegible]

[illegible] Canonum [illegible] adiuvetur [illegible] eccl. [illegible]

[illegible] cap. [illegible] monachorum [illegible] eccl. [illegible]

[illegible] cap. [illegible] cap. [illegible]

[illegible] cap. [illegible] 11. cap. [illegible] 17. [illegible]

[illegible] cap. [illegible] decimis [illegible] 4. 26 q. 7. [illegible]

[illegible] cap. 3. q. 11. [illegible] decalogi [illegible] 24. [illegible]

[illegible] donatio [illegible] valet [illegible] Capituli Conservan[illegible]

[illegible] Sanctis Conciliis [illegible]

[illegible] superveniret [illegible] potestate [illegible]

[illegible] in dicto cap. [illegible]

n. 13.

[illegible] cap. ad audientiam [illegible] Superiorum doctrina [illegible]

[illegible] eccl. [illegible] parrochiae [illegible]

[illegible] alteri donare. [illegible] difficultas [illegible] respondere [illegible]

[illegible] alteri donare [illegible] cap. ad audientiam [illegible]

[illegible] eccl. [illegible]

[illegible] cap. [illegible]

[illegible] Cathedralis [illegible]

[illegible] Cathedralis [illegible]

[illegible] Baronius anno [illegible] 241. [illegible]

[illegible] Romano [illegible] cap. [illegible] Sacrosa[nctae] [illegible]

[illegible] parrochias [illegible]

[illegible] decimas ad novas eccl. [illegible]

[illegible] cap. ad audientiam [illegible]

n. 21. [illegible] cap. [illegible]

[illegible] Barbosa de [illegible] cap. [illegible] lib. 3. cap. [illegible]

[illegible] lib. 29. 20. n. 46. [illegible] plures [illegible] Salgado [illegible]

n. 24.

[illegible] in cap. [illegible] eccl. [illegible] 47. in cap. [illegible]

[illegible] decimas [illegible] novas eccl. [illegible]

[illegible] in cap. ad audientiam [illegible]

[illegible] novas eccl. [illegible] parrochias [illegible]

Parochus applicari eccl. noviter erectae [illegible] trid. cap. ad audientiam [illegible] interpretandi, et exponendi, ad decretum innovatum [illegible] Concilio Trid. sess. 21. cap. 4. ubi decernitur posse hoc facere [illegible] matricis eccl. [illegible] synodalis; [illegible] si [illegible] nova eccl. edificatur nulla fiat divisio antiquae parochialis eccl. [illegible] nova aliqua Oratoria, seu simplex Capella construatur, tunc nullus [illegible] antiquae eccl. inferri debet [illegible] nova eccl. edificata [illegible] decimarum [illegible] proventus [illegible] in hoc casu loquuntur, et procedit Trid. cap. [illegible] ubi stant nova Oratoria [illegible] quicunque ubi de eccl. [illegible] quam aliquis in sua proprietate edificare [illegible] quae in parochia [illegible] quidam simplex solebat capella, et tunc providere debet [illegible] antiquior [illegible] ad antiquiorem eccl. [illegible] sic [illegible] docent Suarez [illegible] de relig. [illegible] cap. 24 n. 6. [illegible] re beneficiaria [illegible] ubi etiam interpretantur [illegible] cap. [illegible] de decimis [illegible] =

no. 25.

3º Denique [illegible] in [illegible] eccl. [illegible] [illegible] Capitulo consentiente [illegible] vel [illegible] unire, [illegible] loco donare [illegible] vacante eccl. rectore, vel dato defensore eccl. vacanti [illegible] decimas [illegible] [illegible] Curia [illegible] cap. unico [illegible] cap. [illegible] de [illegible] Monachorum [illegible] Nicolaus Garcia de benef. [illegible] Thomas [illegible] in decalogo [illegible] cap. 29. [illegible] Concilium [illegible] 26. [illegible] vacante eccl. [illegible] Clem. [illegible] ibi [illegible] defensor [illegible] =

no. 26.

Ad huius [illegible] et doctrinae [illegible] cap. 1. de rebus eccl. alienandis [illegible] vel [illegible] ubi [illegible] vacante eccl. rectore, vel dato defensore [illegible] Vacant [illegible] = [illegible] ad unionem [illegible] legitima superioris auctoritas [illegible] triplici modo fit. 1º [illegible] in unum [illegible] et coalescunt, [illegible] alterum [illegible] inferior [illegible] [illegible] = 2º fit cum duae eccl. [illegible] beneficia [illegible] [illegible] = 3º modo fit unio [illegible] seu parochiales sicut antea erat, [illegible] et de [illegible] cap. 26. [illegible] Rebuffus [illegible] =

no. 27.

[illegible] beneficii [illegible] rectoris [illegible] procedat in [illegible] defensor [illegible] Dicitur [illegible] eccl. [illegible] beneficii [illegible] beneficio [illegible] de unione beneficii [illegible] de donationibus, nec [illegible] cap. [illegible] Trid. [illegible] de [illegible] benef. [illegible] Haec [illegible] Clem. [illegible] [illegible] ubi benef. [illegible] =

n.° 2[illegible]

… et 2° [illegible] ex[illegible] ex[illegible] deducitur [illegible], vel [illegible]

beneficia per [illegible] ambarum [illegible] mutare, probatur [illegible] cap. 1.° cap. Cum Apostolica 7. cap. [illegible] fuerit a [illegible] [illegible] capitula capit. [illegible] de rerum permutat., cap. Cum venerabilis 6. de exceptionibus, [illegible] permutare [illegible] in [illegible] 20. [illegible] auth. de [illegible] [illegible] C. de SS. [illegible] [illegible] tit. in L. 5. [illegible] [illegible] Calamo [illegible] antiquiores [illegible] repetentes, [illegible] Joannes de [illegible] infra [illegible], et Lucas de Pena ibidem [illegible] 1. p. de [illegible] mandatis cap. 4. n.° 36. [illegible] de rebus eccl. [illegible] de caducilitatis n.° 90. Franciscus Leo in Thesauro fori Ecclesiastici p. 1. cap. [illegible] in [illegible] 74. Barbosa de potest. [illegible] allegat. 95. n.° 55. [illegible] ad [illegible] in [illegible], et denique, quia [illegible] alios [illegible] libenter omittimus ne [illegible] videamur, [illegible], [illegible] 3. [illegible] [illegible] 7. quaestio [illegible] n.° 20.

Adversus hanc assertionem movet dubitandi rationes [illegible] [illegible] [illegible] est species alienationis, L. 1.a ff. de rerum permutat., cap. 1.° [illegible] de rerum permutat., cap. nulli [illegible] [illegible] rerum ecclesiasticarum alienatio omnimodo prohibita est, [illegible] [illegible], igitur et similiter permutatio [illegible] [illegible] = [illegible] quia ut venditio, vel donatio rerum eccl. valida, ac rata sit [illegible] utriusque partis consensus desideratur integra [illegible] solemnitas [illegible] in cap. Cum Apostolica, cap. [illegible] [illegible] [illegible] quam donare vel permutare vel vendere audeat, nisi forte aliquid [illegible] faciat, ut meliora [illegible], et cum [illegible] tractatu atque consensu [illegible], [illegible] [illegible] donatio, venditio, et permutatio [illegible] absque consensu et subscriptione [illegible], [illegible] absolute [illegible] permutatio [illegible] [illegible] partis interveniat [illegible] =

n.° 20

Hoc duplici dubio non obstante [illegible] [illegible] statuitur, [illegible] rerum eccl. permutationes [illegible] fieri posse [illegible] utriusque partis authoritate, [illegible] accedat, [illegible] [illegible] solent assignare. [illegible] [illegible] Augustinus [illegible] n.° 29 [illegible] placet, [illegible] ambas ecclesias [illegible] bona unius cum altera permutare [illegible] permutat. [illegible] siquidem tantum datur, quantum aufertur, [illegible] cap. ad [illegible] 6. de rerum permutat. [illegible] respondemus [illegible] [illegible] parochialibus eccl. [illegible] permutatio celebrari, [illegible] permutat. [illegible] consequentia, [illegible] in mutua [illegible] de fideicommisso reciproco, [illegible] [illegible] [illegible] L. de fideicommisso C. de transactionibus, quia [illegible] permutat. [illegible] [illegible] allegare [illegible] animadvertit [illegible] n.° 240. = [illegible] [illegible], [illegible] contrahere [illegible] utrique [illegible] L. 9. [illegible] ff. de [illegible], L. 1. § [illegible] et similiter [illegible] in permutationis [illegible] celebratur, ultro citroque obligationes est [illegible] ff. de permutat. [illegible] Clerici quibus utriusque eccl. administratio est [illegible] [illegible] [illegible] debeat fieri cum [illegible], vel [illegible] [illegible] in cap. Cum [illegible] de exceptionibus [illegible] rerum eccl. [illegible] [illegible] quando bene administrant, [illegible]

n.° 21.

Ut [illegible] obstat difficultas [illegible] assertionem [illegible], nam ut [illegible] dissolvamus [illegible] sub prohibita alienat. rerum eccl. permutatio intelligi, cap. [illegible] [illegible] de rerum [illegible] auth. de non alienandis, aut permutandis [illegible] alienationis, [illegible] permutatio [illegible] [illegible] procedatur, L. 1. ff. de rerum permutat., [illegible] § 1.° ff. de [illegible] pro genere, aut genus pro genere, ut post alios docet Pinelus in rubrica C. de rescindenda venditione [illegible] n.° [illegible] nihil aliud sit quam dominii transferri, L. [illegible] 75. [illegible] ff. de V. O. [illegible] 45. § 2. ff. [illegible] [illegible] [illegible] dominium [illegible], L. 1. C. de fundo dotali; [illegible] dicimus [illegible] decretis quatenus [illegible] intelligi debere, solemnitatibus [illegible] [illegible] [illegible] [illegible] [illegible], maxime [illegible], imo [illegible] convenit.

Nec urget [illegible] [illegible] de qua [illegible] solet [illegible] [illegible] [illegible] L. [illegible], 6. § [illegible] ff. de [illegible]: [illegible] [illegible] [illegible] observat. [illegible] quamvis [illegible] permutat. facere voluerit, [illegible] [illegible] [illegible], [illegible] [illegible] L. [illegible] ff. quod cuiusque universitatis [illegible] [illegible] [illegible] demonstrat. [illegible] docet [illegible] de rebus eccl. q. 26. [illegible] 7 [illegible] =

n.° 22.

Ad secundam resolutionem primo [illegible] [illegible] [illegible] [illegible] [illegible] alterae permutationis [illegible] [illegible] [illegible] [illegible], [illegible] [illegible] cui difficultati ut satisfaciat [illegible] [illegible], discrimen constituendum [illegible] inter permutationes [illegible] [illegible], et inter eas quae fiunt inter ecclesiasticas, et seculares, [illegible] [illegible] valide [illegible] [illegible] [illegible], cap. [illegible] [illegible] 10. [illegible] [illegible] accedat, necesse est [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 2.° [illegible] prohibitum sit [illegible] [illegible]

Debitis quae fiunt a [illegible] [illegible] sine consensu Capituli =

[illegible] ad [illegible]

[illegible] et [illegible] extravagante [illegible] locandi [illegible] intelligebatur [illegible] alienare aut cum maximo [illegible], aut divini cultus detrimento ex quo [illegible] usurpari [illegible] quod [illegible] indicant [illegible] tantum de illis [illegible] tractare [illegible] [illegible] Cyrillus [illegible] finali [illegible] attendens [illegible] [illegible] tationibus quae [illegible] quasi Canonica prohibitionis [illegible] prohibitione [illegible] ex [illegible] cap. [illegible] 60 de [illegible] = [illegible] absolute permutabilis [illegible] debitis solemnitatibus fiant [illegible] [illegible] [illegible] [illegible] =

[illegible] difficilius [illegible] permutandis rebus [illegible] Principem [illegible] Romani [illegible] [illegible] de Valcarcel [illegible] =

[illegible] Emmanuel Rodriguez [illegible] regularium [illegible] Abbatis [illegible] Abbas [illegible] Emmanuel Rodriguez [illegible] [illegible] Abbas [illegible] [illegible]

[illegible] [illegible] [illegible]

[illegible]

[illegible] [illegible] [illegible]

Omissimus [illegible] Barcelon [illegible] decreti cap. 30 [illegible] Antonius [illegible] collecta [illegible] Carmelitani [illegible] Pontificiis [illegible] [illegible]

Aragon. de decimis [illegible] cap. 26 [illegible]

[illegible] concilii decernimus [illegible] censuram ecclesiasticam [illegible] cap. [illegible] 29 [illegible] 25 [illegible] 31. § [illegible] de decimis, cap. [illegible] de privilegiis [illegible] cap. [illegible] 22. 12. q. 2 [illegible] 57 [illegible] 16. q. 1 [illegible] 16. q. 7 [illegible] Trid. sess. 22. cap. 11. de reformat. [illegible] 22 [illegible] 12 [illegible] 9 [illegible] 22 [illegible] explicant [illegible] de [illegible] 9 [illegible] de decimis [illegible] Covarr. [illegible] Capillo [illegible] 25. Cobb. [illegible] 47 [illegible] 7 [illegible] 36 [illegible] 22 [illegible] 7 [illegible] 72 [illegible] Mendoça [illegible] Pelbarte [illegible] cap. 7 [illegible] Augustini [illegible] Barbosa [illegible] 22 [illegible] 11 [illegible]=

n. 2.

[illegible] Principibus secularibus [illegible] temporalis dominii [illegible] bene [illegible] ordinaria [illegible] quadriennii [illegible] dominii [illegible] cap. [illegible] 7. q. 5 [illegible] cap. [illegible] 23 [illegible] Dominii [illegible] volunt [illegible] cap. [illegible] Caroli [illegible]=

n. 3.

2° quatenus in [illegible] tabuliter accipientes res [illegible] seculari Principi [illegible] privandos [illegible] Princeps res aliena [illegible] donauerit [illegible] regiam et principalem maiestatem [illegible] Vindicatio [illegible] Principem [illegible] bene [illegible] de quadriennii [illegible] Nicolaus [illegible] de rebus 22. 12. q. 2. [illegible] Principi [illegible] accipientem [illegible] temeraria [illegible] remaneant [illegible]=

n. 4.

3° [illegible] bona temporalia ecclesiastica [illegible] cap. [illegible] in dominio [illegible] 96 [illegible] cap. [illegible] 21 [illegible] 23 [illegible] 7. 12. q. 1 [illegible] 3. 12. q. 3 [illegible] 6 [illegible] dominium 16. q. 3 [illegible] bona [illegible]=

n. 5.

4° denique [illegible] patroni [illegible] tabuliter [illegible] a seculari Principe [illegible] excommunicatus [illegible] 11. q. 3. cap. [illegible] nulla [illegible] excommunicatio [illegible] excommunicatus [illegible] cap. [illegible] 63 [illegible]=

n. 6.

[illegible] Principes seculares prohibet [illegible] vel alienatis [illegible] excommunicatos [illegible] personas [illegible] ecclesiasticis rebus [illegible] cap. [illegible] 31 [illegible] 13 [illegible] 3 [illegible] 31 [illegible] cap. [illegible] 9 [illegible] 96 [illegible] 6 [illegible] cap. [illegible] Principibus [illegible] excommunicari [illegible] cap. [illegible] 22 [illegible] 17. q. 4 [illegible] cap. [illegible] 17. q. 4 [illegible] 16 [illegible] cap. [illegible] 22 [illegible] 2 [illegible] 26 [illegible] 2 [illegible] 209 [illegible] 7 [illegible] Trid. [illegible]=

7. [illegible] dubitandi ratio superius [illegible] adducta. Non [illegible] [illegible] relatis [illegible], quae probare videntur [illegible] Principis potestate [illegible] in omnibus [illegible] aut alio quolibet modo [illegible] ratione, quoniam ut [illegible] inter [illegible] difficultatem [illegible] animadvertimus [illegible] potestatis [illegible] potestas legis promulgandi [illegible] nec laicis nec principibus saecularibus [illegible] cap. [illegible] de [illegible] cap. [illegible] [illegible] Sermonius [illegible] animadversiones cap. 12. Suarez [illegible] 4. adversus Regem Angliae cap. [illegible] Belarminus [illegible] 2. de Clericis c. 28. = [illegible] potestas [illegible] cap. Abbatibus [illegible] [illegible] cap. [illegible] de [illegible] 123 [illegible] Coll. [illegible] ad Decretales [illegible] [illegible] ad Principes saeculares [illegible] [illegible] et Supremi Principes [illegible] [illegible] ut docent [illegible] [illegible] ad Decretales [illegible] 37. =

8. [illegible] Principis [illegible] [illegible] Belarminus [illegible] 2. de Romano Pontifice [illegible] =

9. Nec magis obstat [illegible] [illegible] potestate [illegible] Principes [illegible] [illegible]

10. Rursus [illegible] dubitandi ratio, quae [illegible] Belarminus [illegible] cap. 26. [illegible]

sequentibus, [illegible] cap. [illegible] ad audientiam [illegible] de [illegible], [illegible] de restitutionibus [illegible]

de in integrum restit. docent [illegible] ubi [illegible] dub. 7. Nec hanc doctrinam

[illegible] probari videtur Dominium bonorum eccl. pauperum esse, nam [illegible] pauperes Dominos appellant [illegible]

[illegible] illorum bonorum habeant, sed quia ex eis [illegible] sustentari debent; nam cum bona [illegible]

donata eccl., [illegible] principaliter [illegible] ad sustinenda onera divini cultus [illegible]

[illegible] ad eleemosynas pauperum, ut ex eis [illegible] supersunt [illegible] merito [illegible]

[illegible] ecclesiastica bona [illegible] cap. [illegible] cap. [illegible]

decreta [illegible] bona [illegible] affirmant [illegible] dominium [illegible]

[illegible] l. 2. §. 1. [illegible] de [illegible] dominibus [illegible] alienari

[illegible] §. 2. [illegible] in hac actione [illegible] bonorum [illegible] docent [illegible] tom. 9. [illegible]

n° 3. [illegible] n° 28. [illegible] 20 [illegible] art. [illegible]

n° 21.

Denique [illegible] obstat ult. [illegible] n° 5 adducta; quae dicebamus [illegible]

[illegible] per [illegible] [illegible] certum et verum [illegible] [illegible] et [illegible]

[illegible] proxime [illegible] in [illegible] [illegible] [illegible] haberet, nec [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] editum

[illegible] [illegible] n° 22. [illegible]

[illegible] [illegible] [illegible] [illegible]

[illegible] cap. 40. [illegible] [illegible] [illegible]

omittet, docent [illegible] n° 39. C. de [illegible]

[illegible] de [illegible] c. 7. = Nec [illegible] n° 22. de [illegible] excommunicationis [illegible]

[illegible] excommunicatos [illegible]

[illegible] [illegible] [illegible] cap. 17. [illegible]

n° 99. [illegible] canonica cap. 87. [illegible] = [illegible]

Decreto Concilii Tridentini [illegible] cap. [illegible] =

n° 22.

Ex his omnibus [illegible] in [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] exceptionem

[illegible] [illegible] Decanus ex Donat. Regiis [illegible]

[illegible] aperte [illegible] privilegium [illegible] Decano et Capitulo [illegible]

Vacantes [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] solutionibus [illegible]

[illegible] [illegible] [illegible] de Rege [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] in cap. [illegible]

tit. 6. [illegible] n° 3 [illegible] cap. [illegible] [illegible] n° 296. [illegible]

[illegible] [illegible] privilegii [illegible] [illegible] ad bona

[illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] =

[illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] n° 21. [illegible]

[illegible] [illegible] n° 40 [illegible] =

[illegible] [illegible] [illegible] [illegible] Tribunal

[illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] bona

[illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] in cap. [illegible] cap. [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible]

Margin: ex[illegible] [illegible] [illegible]

de [illegible] c. 3. Colb. tract. [illegible] cap. 31. [illegible] ad verum [illegible] card. [illegible] = Nec [illegible] Tributum [illegible] Imperator [illegible] lex 31. [illegible] animadversio [illegible] =

n.° 24 [illegible]

[illegible]

n.° 25 [illegible] vult. [illegible] explicatio ad [illegible] cap. [illegible]

[illegible] Principi [illegible] n.° 64. [illegible]

= [illegible] =

= Cedant. =

Explanatio ad [illegible] Concilio Toletano [illegible] [illegible] =

= [illegible] =

c. cap. 66 et 67.

n.° 1.° Unico [illegible] hic duo [illegible] Toletani [illegible] fragmenta [illegible] decrevimus, [illegible]

[illegible] Toletani [illegible] =

n° 2.

Verum licet hic ratio[illegible] et auctoritatibus [illegible] maneat [illegible] ex [illegible] objectionibus. [illegible] quod [illegible] recte [illegible] tere, [illegible] manumissionem [illegible] [illegible] finali [illegible] [illegible] servus [illegible] manumissio [illegible] semel [illegible] [illegible]

n° 8.

[illegible] difficultas [illegible] servus esse, [illegible] manumissio, nec [illegible] in [illegible] [illegible] manumissus [illegible] manumissi =

n° 6.

[illegible] manumittere [illegible] manumissione [illegible] semel [illegible] manumissio [illegible] reduci [illegible] =

n° 5.

[illegible] manumissio [illegible] servus [illegible] manumissi [illegible] servi [illegible] =

n° 6.

[illegible] difficultas [illegible] manumissione [illegible] alienare [illegible] manumittendi [illegible] manumissio [illegible] servos [illegible] =

n° [illegible]

[illegible] manumittere [illegible] servus [illegible] servus [illegible] Abbas [illegible] servos [illegible] manumittere [illegible] =

n° [illegible]

[illegible] manumissus [illegible] manumissione [illegible] servus [illegible] manumissio [illegible]

[illegible] d. [illegible] n° 4 [illegible]

In hac [illegible] placuit Panormitani, et Innocentij [illegible] sufficeret adhoc [illegible] servos [illegible] manumitteremus [illegible]. Nec quid obstat [illegible] caducis [illegible] debere [illegible] quam [illegible] servos [illegible] =

n.o 10

[illegible] adult. itaque obstat [illegible] quod dicebamus manumissionem [illegible] alienationis [illegible] ecclesiasticis [illegible] interdictis [illegible] debet intelligi [illegible] manumittere [illegible] = Nec [illegible]

Leg. 53. [illegible] 1692. =

n.o 10

Deinde [illegible] obstat [illegible] [illegible] manumissionis [illegible] liberti [illegible] =

n.o 11

Deinde [illegible] liberti [illegible] manumissio [illegible] =

n.o 12

Denique non obstat [illegible] [illegible] manumissio [illegible] libertatem [illegible] manumissionem [illegible] = Nec quid [illegible]

[illegible] =

n. 29 Catholicus [illegible] ex [illegible] accidentalis [illegible]

[illegible] quintam analysis 54. d. [illegible] [illegible] ordinarius [illegible]
[illegible] valeat, [illegible]
[illegible] = [illegible]
[illegible]
[illegible] = [illegible]
[illegible] = [illegible]
[illegible] = [illegible]
[illegible]
[illegible] Cajetan [illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible] =

n. [illegible] Admittur [illegible]

[illegible]
[illegible] cap. 2. n. 5. [illegible] cap. [illegible]
[illegible] Venerabilis [illegible]
[illegible] l. 6. [illegible] 22. n. 4. [illegible]
[illegible] Barbosa [illegible] allegat [illegible]
[illegible] cap. 37. n. 230 [illegible]
[illegible] cap. [illegible] ordinandis [illegible] Cum [illegible] Angelico [illegible]
q. 2. art. 2. [illegible]
ecclesiasticis ministeriis [illegible]
[illegible]
[illegible] Toletum [illegible] cap. 37. [illegible]
[illegible]

n. [illegible] Nec quidquam [illegible] dicere [illegible] S. Valer [illegible]
[illegible]
[illegible]
[illegible]
[illegible] Sylvester [illegible] cap. 3. [illegible]
[illegible] cap. 42 [illegible] ordinari [illegible]
[illegible]
[illegible] extraordinarii [illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible] ordinarii [illegible] Nec [illegible]
[illegible]
[illegible]
[illegible] =

[illegible]

Illud [illegible] servi [illegible] 5. [illegible]

ex [illegible] servus [illegible] domino [illegible] aut [illegible] fuerit ordinatus [illegible] officio [illegible] duos [illegible] ignorante [illegible]

[illegible] ordinandis servis [illegible]

Domini [illegible] libertate [illegible]

[illegible] servis [illegible] domino, ordinaverit. [illegible] Ordinatis [illegible]

duos servos, quo casu [illegible]

ordinandis servis [illegible] = [illegible]

[illegible] de servis ordinandis, ex quo constat [illegible] domino [illegible] ad servitutem redigi

[illegible] = [illegible] de ordinatis minoribus ordinibus [illegible]

[illegible] ad servitutem redigi [illegible] superiores ordines [illegible]

[illegible] ad ordinem diaconatus, vel [illegible] ignorante domino et ordinatore fuerit [illegible]

ipse tenetur ad [illegible] praedicari [illegible]

[illegible] servis ordinandis [illegible]

[illegible] officii [illegible] 5. [illegible] 2. cap. [illegible]

[illegible]

fuerit [illegible] 5. [illegible] Barbosa [illegible] = Nec quid

[illegible] 6. [illegible] 22. [illegible] servus [illegible]

[illegible]

[illegible]

[illegible] 22. 9. 2. [illegible] Theodori [illegible] concilii [illegible] Valeat, necne, valet [illegible] Valere [illegible]

[illegible] Cardinalis Zabarela [illegible]

[illegible] de servo [illegible] Valere [illegible]

[illegible] 11. [illegible]

[illegible] Theodori [illegible]

[illegible]

[illegible] valere [illegible]

[illegible] =

[illegible] Concilii Toletani [illegible]

[illegible] 5. 22. 2. [illegible] servus [illegible]

[illegible] servus [illegible] ordinandi [illegible]

[illegible] 5. 22. [illegible]

[illegible]

[illegible] 63. [illegible]

[illegible]

[illegible]

[illegible]

... explicandum ... [illegible]

[illegible]

... in ... [illegible]

Libri expositio ad hunc titulum [illegible]

[illegible] verb. [illegible]

[illegible]

Nobilem, perillustrem, ac ... nec non ... [illegible] ... explicandum agredimur, ... [illegible]

[illegible]

probatur [illegible] ... C. [illegible] ... cap. ... 6. cap. ... ambitiosæ [illegible] ... Novella [illegible] Justiniani quæ habetur in auth. de [illegible] alienatione ... Collat. 7. et novella 120 Contenta in auth. de [illegible] Collat. 9. ... de rebus eccl. ... extravagant. ambitiosæ ... Cobb. lib. 2. var. cap. 17. ... de rebus eccl. ... Innocentius ... Barbosa ... Quaranta ... Abbas ... [illegible]

Verum hoc [illegible] ... [illegible]

2a difficultas [illegible] ... L. 1. C. de fundo dotali ... [illegible]

3a difficultas [illegible] ... [illegible]

4a [illegible] ... [illegible]

5a difficultas [illegible] ... Quaranta ... [illegible] ... Medina ... [illegible]

[illegible marginal notes]

[illegible] Deo liberius vacarent, evangelicaque [illegible] [illegible], [illegible] necessitatibus [illegible] [illegible] Paulus [illegible] Timotheus [illegible] in cap. [illegible] 28. 129 [illegible]

8

[illegible] temporis [illegible] multiplicatis [illegible] fidelium [illegible] [illegible] bona quae antea vendebant [illegible] ecclesiis [illegible] [illegible] pauperum, et clericorum nec [illegible] erant, ex illorum bonis [illegible] [illegible] [illegible] [illegible] [illegible] de vita, et honestate clericorum [illegible] pauperum [illegible] [illegible] ecclesiae [illegible] bonorum [illegible] [illegible] cap. [illegible] 24. 129 [illegible]

9

[illegible] temporis [illegible] ad aliena [illegible] Italiae [illegible] clericorum [illegible] [illegible] fuit propter [illegible] patrimonium [illegible] [illegible] habentes sustentabantur, ut [illegible] cap. [illegible] 12. q. 2. [illegible] cap. [illegible] 6. 1 q. 2. de quorum [illegible] [illegible] [illegible] cap. 2. [illegible] 7. de [illegible] [illegible] collect. ad [illegible] coll. 12.

10

[illegible] temporis fuit [illegible] [illegible] bonorum [illegible] clericos [illegible] [illegible] cap. [illegible] 90 [illegible] cap. [illegible] 23. q. 2. et in cap. [illegible] [illegible] fuit a [illegible] cap. [illegible] 24. [illegible] 3. et 23. [illegible] Gelasius Papa [illegible] bonorum eccl. [illegible] clericos 33. [illegible] pauperum [illegible] fabricae eccl. [illegible] 23. et in cap. [illegible] 26. [illegible] 12 q. 2 [illegible] [illegible] in historia eccl. [illegible]

11

[illegible] [illegible] ut [illegible] 24. 12. [illegible] [illegible] prohibitionis [illegible] [illegible] 27. q. 4. [illegible] alienare eccl. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] cap. 1. [illegible] cap. [illegible] 12. q. 2. [illegible] [illegible] [illegible]

12

[illegible] [illegible] alienat [illegible] [illegible] prohibitio de [illegible] [illegible] prohibitionis [illegible] [illegible] familiae [illegible] [illegible] [illegible] [illegible] 12. ff. [illegible] [illegible] 50 [illegible]

[illegible]

[illegible] [illegible] tradit in Menochio [illegible] 40. [illegible] [illegible] [illegible] 47 [illegible] [illegible] 27 [illegible] [illegible] de rebus [illegible] 27. [illegible] 97 [illegible]

[illegible]

... excipiatur, [illegible] ... Tholosa [illegible] ... Lib. 2 ... 42 ... decis. ...

... Maj. ... Urbano 6° anno [illegible] 1388, docent Emmanuel Rodriguez tom. 1 regularum q. 27 art. 2 ... decis. 76 ... Urbano Octavo ... Barbos. ... alleg. 95 n° 60 ... Schismaticos, c. 1° de Schismaticis ... occupatores ecclesiarum ... 44 ... Catholicorum ... sede vacante ...

[illegible] ... 20. 22. 22 ...

... anno 16[illegible]4 ... Concilio ... Tolletano ...

[illegible] ... lib. 3 ... n° 32 ... Thomas Sanchez lib. 6 de matrimonio disp. 42 ... [illegible] ... decis. 37 ... 22 ...

[illegible] ... 4 usque ad 133.

[illegible] ... Abbas ... Panormitanus ... 11 ... 42 ... 93 ...

[illegible] ... 57 ... 2[illegible] ...

[illegible]

[illegible] de acceptat. cum [illegible] honorrec [illegible] ut [illegible] exaudit [illegible] ad Corinthios c. 4. [illegible] Anselmo [illegible] D. Thoma 2. 2. q. 100 [illegible] [illegible] Certo modo [illegible] referendo, qui [illegible] procedit tamen [illegible] bonorum [illegible] ministerii [illegible] [illegible] clericos et [illegible] bonorum [illegible] cap. [illegible] [illegible] [illegible] vindicat [illegible] in remedio [illegible] de rei [illegible] [illegible] [illegible] cap. 6. n. 2 [illegible] [illegible] =

n. 26

Neque tamen, [illegible] dicere, [illegible] bonorum, [illegible] alienare, [illegible] Respondetur [illegible] alienare [illegible] probatur [illegible] [illegible] cap. 6. n. 4. [illegible] [illegible] alienare [illegible] valent [illegible] clericos [illegible] alienare [illegible] ecclesiastica, [illegible] altarum [illegible] [illegible] sacram [illegible] [illegible] Libere alienare [illegible] operat [illegible] [illegible] bonorum [illegible] [illegible] ut [illegible] [illegible] [illegible] [illegible] cap. 5. [illegible] =

n. 26

[illegible] Quibus [illegible] [illegible] et bona [illegible] [illegible] n. 27 [illegible] cap. 21. [illegible] n. 21. [illegible] [illegible] 36. [illegible] 87 [illegible] 52. 62. 82. [illegible] [illegible] n. 22 [illegible] n. 38. [illegible] cap. 172. n. 24. [illegible] [illegible] [illegible] n. 94. [illegible] Castillo [illegible] [illegible] [illegible] cap. 42 n. 62. [illegible] [illegible] [illegible] 56. [illegible] 21. n. 5. =

n. 27

Si tamen [illegible] [illegible] [illegible] [illegible] [illegible] n. 63 [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Canonicus [illegible] [illegible] [illegible] [illegible] Nec [illegible] alienare [illegible] ut [illegible] alienare [illegible] usucapi [illegible] alienare [illegible] [illegible] [illegible] [illegible] [illegible] alienare [illegible] [illegible] [illegible] Augustinus [illegible] =

n. 28

[illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] prohibitiv. alienat. [illegible] prohibita [illegible]; [illegible]
[illegible] poterat, [illegible] constante [illegible]
Cod. [illegible] et leo. [illegible] ut revocatio [illegible] agere [illegible]
[illegible] l. 1. ff. [illegible]
[illegible] = Nec [illegible]
[illegible]
[illegible] solemnitate, [illegible]
[illegible] Dominicus Francus [illegible] =

2.do

Primus [illegible] obstat [illegible]

[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]

3.o

Deinde [illegible]

[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible] =
[illegible] 2.o obstat [illegible]
[illegible]
[illegible] =

4.o

4.o obstat [illegible] vacante [illegible]

[illegible] vacante [illegible] solemnitate [illegible]
[illegible]
[illegible]
[illegible] vacante [illegible]
Capitulo [illegible]
[illegible]
Vacante [illegible]
Capituli [illegible] Vacante [illegible]
[illegible] = [illegible] Capitulum [illegible] vacante [illegible]
[illegible] solemnitatis [illegible]
[illegible]
[illegible]
[illegible]
Vulgatis [illegible]
[illegible]
[illegible]
[illegible] =

5.o

5.o obstat [illegible]

[illegible]
[illegible]
[illegible]
[illegible] Vac. [illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]

[illegible]

n° 33

[illegible]

n° 34

Denique non obstat [illegible]

[illegible]

n° 35

[illegible]

n° 36

[illegible]

[illegible] ubi [illegible] qui Creditor [illegible] quae [illegible]
[illegible] 6. ff. de [illegible] de [illegible]
ff. [illegible] ubi Creditori [illegible] Debito [illegible]
procedere quia [illegible] quod [illegible]
[illegible]

n. 37

Rursus [illegible]
[illegible] adeo ut [illegible]
[illegible]
[illegible] Decreta [illegible]
illud [illegible] Augustino [illegible]
[illegible] quibus [illegible]
[illegible] ff. de [illegible]
[illegible]

n. 38

[illegible]
[illegible] ff. de donationibus [illegible]
[illegible]

n. 39

[illegible] de [illegible] Concilio [illegible] 47. cap. 56. [illegible]
[illegible]

n. 40

[illegible]

n. 41

[illegible] Vendit. [illegible]
[illegible] 3. [illegible] 45. [illegible]

n. 42

[illegible] de [illegible]
[illegible] ad [illegible]
[illegible]

[illegible] valere. [illegible] n. 74. Barbosa [illegible] allegat [illegible] n. 55.

n. 41.

Plures alienationum [illegible] emphyteusim [illegible] feudi [illegible] Valde diversum aliud enim emphyteusis, aliud feudum, ut [illegible] quo dominus [illegible] utile dominium [illegible] [illegible] 209 [illegible] emphyteutico [illegible] de locat. [illegible] docent [illegible] cap. 19. n. 3. [illegible]

[illegible]

n. 44.

[illegible]

n. 45.

[illegible]

[illegible] 74. [illegible]

[illegible]

[illegible] [illegible], [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

+

Relectio ad tex. in cap. Placuit. 1. de emptione, et vendit. lib. 3. tit. 17.   Schedas. 34.

[illegible]

... locumentum ... de empt. et vendit. ...

... in quolibet loco existens ... mercato venduntur ...

[illegible]

[illegible] peregrinos [illegible]

[illegible] Clementinae [illegible]

[illegible] habeant [illegible] cap. [illegible] 36 [illegible]

[illegible] nominat [illegible]

[illegible] Henrico [illegible] cap. 41 [illegible]

[illegible] Catholicos [illegible]

[illegible]

[illegible]

[illegible] vivere nequeunt [illegible] Provinciamque [illegible]

[illegible] de Soto [illegible] redemptionem [illegible] cap. [illegible]

[illegible] Thomas Sanchez [illegible] cap. 25 [illegible]

[illegible] Sacramentis [illegible]

n. 8.

[illegible]

[illegible] Romanum [illegible]

[illegible]

[illegible]

n. 9.

[illegible] Valerius [illegible]

[illegible]

[illegible] Cap. [illegible]

[illegible] Valere [illegible]

[illegible] Alphonsus [illegible]

[illegible] 36 Colum. [illegible]

[illegible] cap. [illegible] 249 [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

n. 21.

Ceterum ... obstat ... difficultas deducta ex ... [illegible] ... nam Caupones et Stabularii ex quo probari videtur hospitalitatis ... et gratuitis ... [illegible] ... receptare ... hospites ... [illegible] ... Fabinitio ... Voluntatis ... [illegible] ... Caupones et Stabularii ... [illegible] ... Mercatores ... arbitrio ... [illegible]

n. 22.

Deinde ... tertia difficultas deducta ... authoritatibus ... [illegible] ... vendere ... [illegible] ... Venditor ... [illegible]

n. 23.

Hic ... [illegible] ... Venditor ... Menchaca ... Bobadilla ... [illegible] ... Republica ... [illegible] ... Vendere ... [illegible] ... Venditur ... [illegible]

n. 24.

... necessitas ... [illegible] ... Curatores ... [illegible] ... Vendere ... [illegible] ... Vendi ... [illegible]

n. 25.

... Vendere victualia ... [illegible] ... Venditur ... Menchaca ... Bobadilla ... [illegible]

n. 26.

... [illegible] ...

... de variis et extraordinariis criminibus et intradictis a Lusitanis ... 2. q. 180. ... quand[o] [illegible] interuenerit ... correctio peccati ... qualemcumque ... [illegible] secularis ...

... in his Casibus habet in habitu ... hoc est peccati ... [illegible]

... Abbas ... 12. Obs. ... peccati ... [illegible]

... ut ... decidendi ... peccati ... [illegible]

... [illegible] ... Clericus ... [illegible]

... seculari ... cumulatiue ... Concessa ... [illegible]

... quo ... ut ... in hoc Casu ... ordinarius ...

... peccati ... eo modo ... iure Canonico ...

n.° 27 ... [illegible] ... honoribus =

... ex his omnibus ... decidendi ... Veneti ... [illegible]

... Decreta explicanda ... neque ... publicas vel ... quod ... Clericus ... [illegible]

... [illegible] ... omnibus ... [illegible]

... [illegible] ...

... [illegible] ... Clericis ... [illegible]

... [illegible] ... hospitalibus ... [illegible]

... [illegible] ... [illegible]

... [illegible] ... Clericus ... [illegible]

... [illegible] =

n.° 28

... [illegible] ... ut ... [illegible]

... [illegible] ... Decreto ... [illegible]

... [illegible] ... debere ... [illegible]

... [illegible] ... [illegible]

... [illegible] ... hospitalibus ... [illegible]

... [illegible] ... cap. 2.° ... [illegible]

... mensuris ... pondera ... [illegible]

... [illegible] ... [illegible]

... [illegible] ... [illegible]

... [illegible] ... [illegible]

... [illegible] ... [illegible]

... [illegible] ... Abbas ... [illegible]

n.° 29

... [illegible] ... difficultas ... [illegible]

... mensuris ... pondera ... [illegible]

... [illegible] ... [illegible]

... cap. 2.° ... Venetis ... [illegible]

... peccati ... [illegible]

... [illegible] ... [illegible]

... difficultas ... [illegible]

... cap. 2.° ... [illegible]

... [illegible] ... [illegible]

... [illegible] ... qualitas criminis ... [illegible]

... cap. 2.° ... 30 ... [illegible]

... criminis ... Bellarminus ... cap. ... [illegible]

cap. ... [illegible] ... [illegible]

[illegible] ... 48. ... ipse solus D. Joannes de [illegible] in cap. ... [illegible] tenuit ... n.º 54. ... [illegible] ... 37. ... Barbosa in Collect. ad ... cap. ... [illegible]

[illegible] ... Collect. ... Barbosa ... [illegible] ... n.º 12 ... [illegible] ... Barbosa ... in Collect. ... 129 ... [illegible] ... sufficiant ... [illegible]

Sequitur exercitatio [illegible] cap.

[illegible] cap.

[illegible]

[illegible]

[illegible]

N.º [illegible]

+

[illegible]
[illegible]
[illegible] Lib. 3 tit. 17.

Schedas. 35.

[illegible]

[illegible]

[illegible]

Specie quod a nro Pontifice Inocentio tertio propositu fuerit, quidam monachi vendiderunt quasdam possessiones sui monasterij quibusdam civibus certo et determinato pretio, hoc. lucti ipsi comparuerunt coram iudice ecclesiastico dicentes predictam venditionem omnimodo rescidenda, propterea quod celebrata fuerat cum magna lesione, siquidem ultra dimidiam partem iusti pretij suum monasterium erat deceptum, super quo facto consultus Romanus Pontifex Inocentius tertius, partibus utrisque auditis sententiam protulit qua precepit, ut predicti emptores, aut pretio recepto, restituant possesiones quas emerant, aut suppleant quantum constiterit iusto pretio tempore venditionis defuisse. Ex quo facti specie conclusio quam ab Interpretibus deducitur sic se habet: venditor deceptus ultra dimidium iusti pretij agere potest ut res sibi vendita [illegible] pretio accepto restituatur, vel iustum pretium suppleatur, probatur hec conclusio ex textu capitulo cum dilecti 3.° hoc nro titulo, probant textus in cap. ad nostram 11. de rebus ecclesiae alienandis, capitulo veniens 26. cap. quintavalle 23. de iure iurando, cap. constitutus 6. de religiosis domibus, cap. 1.° de rebus ecclesiae alienan. lib. 6. de iure civili probant textus in l. iure successionis § si ius 8. ff. de iure dotium, l. licitur ff. familiae erciscundae, l. 1.° § sed et si quis quid 19. l. siquidem 10. ff. de rescindenda venditione, l. 2.° cod. de rescindenda venditione, l. 1.° cum pluribus alijs cod. de dolo, l. si circumscriptio, cod. de rescindenda venditione, l. si quidem 11. cod. de predijs minorum, de iure regio probant textus in l. 56. tit. 11. lib. 5. recopilationis, l. 4. tit. 1. lib. 5. ordinamenti, l. 56. tit. 5. partita 5. et exornant hanc nostram conclusionem preter antiquiores communiter ad predicta iura referentes Arias Pinelus in l. 2.° cod. de rescindenda venditione, Molina in emptione iuris, tit. de contrahenda emptione, quest. 8. cum seqq. Antonius Gomez tomo 2.° variarum cap. 3.° n. 22. Antonius Faber in rationali ad textum in l. si causa 17. § 2. ff. de minoribus, Donelus in d. l. 2.° cod. de rescindenda venditione, Covarruvias [illegible] lib. 2. variarum cap. 2. 3. et 4.° Facchineus lib. 2. controversiarum cap. 20. [illegible] lib. 21. cap. 13. littera M. Cujacius in l. 2.° cod. de rescindenda venditione, Dom. D. Ferdinandus Arias de Mesa lib. 3.° variarum cap. 14. n. 1.° et alij plures quos referunt et sequuntur Zenedo in collectaneis ad decretales collectanea 48. n. 1.° cum seqq. et Barbosa in collectaneis ad nostrum textum fere per totum —

Sed licet hec nra conclusio tot iuribus et authoritatibus firmata verissima sit, difficilis tamen redditur ex sequentibus obiectionibus. Prima exornascitur quia iure naturali in pretio licitum est contrahentibus sese adinvicem decipere l. in causa 19. § idem Pomponius ff. de minoribus, l. item pretio 22. § finali ff. locati, igitur in nro textu monasterium admittendebit ad rescisionem predicte venditionis cum talis deceptio permissa iure digna fuisset —

Secunda dificultas exornascitur quia res non valet plus quam vendi potest, l. [illegible] ff. ad Trebelianum, l. pretia 63. ad legem falcidiam cap. 1.° hoc nro titulo, ergo cum venditio predictorum prediorum fuisset celebrata iniuste in nro textu ab Inocentio tertio rescindi —

Tertia dificultas exornascitur quia quando venditio celebratur cuiuslibet rei [illegible] venditor presumitur sciens et prudens iusti pretij sed tunc remedium rescisionis locum non habet, ut probat textus in l. si quis quid cod. de rescindenda venditione, igitur monasterium in nro textu, specie non debuit rescisionem predicti contractus intentare —

Denique predicta nostra assertio valde dificilis redditur, quia quotiescumque aliqua causa deceptioni tribuitur remedium est inductum a Pretore de quo extat mentio in l. 1.° ff. ex quibus causis maiores ubi huius rei sola a Pretore cavetur sed quando deceptio

Cap. cum causa 12 de testibus et attestationibus —

ultra dimidiam adest magna lesio invenitur, ut de per se patet, ergo cum iam huic damno suc-
cursum satis fuisset non decet novo remedio idest rescisionis nostri textus utitur, quia i-
rum sit subsidiarium et non debeat habere locum nisi quando ordinarium cessat iusta text.
in l. 1. causa ff. de minoribus cum vulgatis =
His difficultatibus minime refragantibus, dicendum est verissimam esse nostri text. decisionem, videlicet
monasterium venditorem ultra dimidiam iusti pretij habere actionem ad hoc ut emptores suorum prediorum
aut recipiant pretium quod persolverant, aut si eum re permanere desiderant, reddant quantitatem
quae superest, cuius asertionis decisivam rationem ut proponamus, nonnulla animadvertenda
da sunt et primis iam ab origine repetentes animadvertimus olim contractum emptionis et vendi-
tionis usum non fuisse sed tamen permutationem apud gentes obsi[?] ita ut res pro re daretur
ut constat ex text. in l. 1. ff. de rerum permutatione, verum cum commercium esset valde impeditum
ex eo quod quam plurimas res pro re tradi non poterat, aut propter defectum voluntatis contrahen-
tium fuit emptionis et venditionis contractus quo pretio interveniente commercia expedi-
bat sic frequentarentur, ut statuitur in l. 1. ff. de contrahenda emptione, quorum tracta-
ra velit Hostat post alios Augustinus Morlanus [?] emporio iuris lib. 9. ff. de contrahenda
emptione repertorium. Hinc ergo eo ipso quod talis contractus incepit esse fraudis in-
duci ceperunt quibus, ut obviarent, legumlatores induxere remedia, quibus damnificati
succurreretur, lea enim omnia tanquam ab hinc aliena omittimus naturam et vim iam remedium
lesionis quando lesio est ultra dimidiam iusti pretij tanquam principaliter nostri textus contempla-
ta explicaturi = igitur hoc supposito statuimus valde dubium esse an hoc remedium et iuris con-
sultis et Pontificibus fuerit cognitum, quare triplex adest opinamentum primum est apud predi-
ctos omnes fuisse cognitum, et probari videtur ex l. 1. ff. ex quibus causis maiores et ex l. iure
iuris, aperte probatur, quod per deceptis succurrendum esse, absque distinctione, ergo iam huic dam-
no per consultos satis cautum erat. = Secundum opinamentum est eorum qui putant pre-
dictum nostrum remedium et Pontificibus et iuris consultis, incognitum fuisse, usque dum a Diocle-
tiano, et Maximiano ex humanitate nove fuit proditum in d. l. 2. cod. de rescindenda ven-
ditione, et a Pontificibus, indirecte Alexandro tertio in cap. cum dilecti, h. nostro titulo, Innocen-
tio tertio in nostro textu = Tertium iudicium est eorum qui existimant, hoc remedium cognitum fuisse apud
predictos legumlatores, non tamen precepisse, ut observaretur quasi dicamus, res pretio cogni-
tionis non esse novam, respectu vero modi, et formae restituendi rem, vel supplendi iustum pretium
novitatem continere, ut eleganter animadvertit Pinellus in l. 2. cod. de rescindenda vendi-
tione, prima parte, cap. 9. cuius opinioni et iudicio libenter acquiescimus propter funda-
menta ab eore lata quae libenter admittimus ut ad alia deveniamus =
Rursus animadvertimus dimidiam partem iusti pretij, ut predictum remedium competat ita consideran-
dam et computandam esse si res valet centum venditur que minus quinquaginta, tunc enim actio
competit, ut pretium restituatur, aut res tradatur. ut eleganter animadvertit Pine-
llus loco supra citato, Antonius Gomez tomo. 2. variarum resolutionum cap. 2. n. 9. cum
sequentibus, qui etiam existimant valoris stimationem considerandam esse iusta tempus legiti-
mae venditionis, et hoc apprime probatur ex nostro tex. et ex d. l. 2. et ex legibus regijs in-
latis quippe si tempus superveniens inspiceretur, locus fraudibus daretur, quod disper-
pertitandum est quapropter qui predicto remedio uti voluerit debet probare

valore rei vendita tempore venditionis, et comparere coram iudice per actionem ex empto, vel vendito petens rescissionem predicti contractus. in l. ex empto. u. § si quis ff. de action. empti, quia intentandi modum actionis iudicamus, licet non ignoremus aliquibus placuisse, nostrum hoc remedium intentandum esse, in iudicio condictione ex l. argumento textus in l. 2. ff. de condictione ex lege, verum sine dubio hoc opinamur, qui per hoc amplexius fuit Matienzo in dicta l. 1. nove recopilationis. =

Deinde supponimus etiam communi inspecto huius nostri capitis remedium, sicut cetera actiones triginta annorum spatio prescribi et finiri et sicut l. omnes. C. de prescriptione triginta vel quadraginta annorum docent relati ab Antonio gomez, qui animadvertunt hoc locum habere ubi iure communi inobservantia fuit quibus in lusitania quindecim anni in Italia et Galia, decem sufficiunt, in non vero hispania quatuor sunt necessarii, ut constat ex l. 2. ti. 11. lib. 5 recopilationis quae inequaliter observetur, et respectu fisci, et respectu ecclesiae, inferius explanabimus illud tamen omittere non possumus, videlicet hoc nostrum remedium tantum locum habere in rebus inmobilibus, non vero in mobilibus, ad quod movemur primum ex decisione textus in dicta l. 2. C. de rescindenda venditione ubi cum Imperatores rem venditam proposuissent ad speciem reduxerunt, neque ad fundum quod idem in nostro textu probatur et in cap. cum dilecti 3. h. nostro. tit. facit etiam quia res mobiles pretium certum et determinatum habent ut de per se patet. ergo de rigore iuris necessarium predictum remedium non erit humanitatis tamen gratia mobiles res pretiosae hoc remedio comprehenduntur, satis enim ineptum esset, et satis durum res immobiles parvi momenti et valoris hoc remedio comprehendi, mobiles autem pretiosas excludi, siquidem frequenter in alienatione utriusque est eadem consideratio l. lex quae C. de administratione tutorum, cap. nulli. q. de rebus ecclesiae, cap. 1. de his quae fiunt a Prelatis. = Hinc ergo etiam proponendum veniebat quibus personis, hoc nostrum remedium competit illud tamen in expositione textus in cap. admittit 11. de rebus ecclesiae deo dante exponemus =

His itaque constitutis et animadversis proponenda venit nostrae assertionis decisionis ratio. ideo enim in nostro textu statuitur emptores prediorum monasterii per iudicem compellendos ad hoc ut ea restituant, et pretium recipiant, aut si ea retinere volunt prestent supplementum valoris predictae rei, quoniam cum contractus propter suam fragilitatem facile tamquam humani errare soleant, eadem humanitatis ratio decepti subvenire postulat, ut unicuique quod suum est reddatur, l. 2. ff. de actionibus empti quippe cum contractus emptionis, et venditionis inter ceteros tanquam princeps sit, necnon inductus ad conservandam hominum commercia, et valde frequens, et necessarius, necnon bonae fidei, utique et in bonae fidei iudiciis, et contractibus, equalitas ex pari consideretur, l. contractus 23. ff. de regulis iuris cap. bona fides. de deposito merito fuit deceptionibus suis subveniendum constituitur, ut deceptus possit rem exigere, et pretium offerre aut petere ut suppleatur quod deest, hac de causa merito noster Pontifex Innocentius tertius asserit emptores, et predicta esse compellendos, et hac ratione nostrae leges regiae fuerunt introductae docent hanc decidendi rationem preter antiquiores in relatos, Pinelus, ibi supra n. § cap. 3. Ant. gomez t. 2. cap. 2. n. 4. Matienzo, d. l. 1. glos. 6, et alii in relatis =

Unde ignorantur obstant dubitandi rationes superius contrarium textum adducta, non primum dedi[...]ctum ex authoritatibus, quibus probatur contractus legitime initus liberum adimpleri sive [...] textu libera[...]

ac per consequens remedium de quo in nostro textu absque causa et ratione introductum quia legislator in nostro textu, et in d. l. 2a cod. de rescindenda venditione. Pinelus et alij in relectione varias aducant solutiones, nos tamen breviter, ut a predicta dificultate liberemur sequentem distintionem proponimus, aut enim hanc rem consideramus in foro interiori aut exteriori, si in interiori quis sciens vendiderit rem maiori pretio pecat mortaliter et ad restitutionem tenetur quia locum lebari quis non debet cum alterius iactura vel iniuria iuris principijs quapropter eo foro inspecto quis non poterit hoc facere ut salubriter docet Angelicus Preceptor Divus Thomas 2a secunda quest. 77. articulo adquod confirmandum aduiter exemplum mariti adulteros interficientes incrimine et lieni publico questui exposita et a Republica tolerata, in foro vero exteriori de natura contractus licita erat tempore consultorum deceptio ultra dimidiam quod ideo fuit permissum ne fortasse litibus vexaretur Republica, eiusque tranquilitas confunderetur et observatum atque dum Imperatorum ac Pontificum decretis contrarium fuit statutum quorsum procedunt authoritates in contrarium aducte =

[...]ius non obstat secunda dificultas deducta ex illo iuris principio quo dicitur res tantum valere quantum vendi possunt, sicque semel factam venditionem qualicumque [...] rescindi minime posse, quia breviter dicimus predictum principium inteligi debere quando legitimum et iustum est pretium, tuncque est sensus, predicta doctrina, ut docet Divus Thomas ubi sup. in cuius rei confirmationem facit textus in cap. 1. de emptione et vendit. de qua aliqua dicemus =

Deinde non obstat tertia dificultas deducta ex illa consideratione qua dicebamus vendentem res suas tanquam suum valorem scientem, et tanquam verum dominum eo casu quo maioris estimationis fuerit res, inteligi donare pretij maioritatem quia ut ab hac dificultate liberemur animadvertimus circa hanc rem nonnulas, inveniri opiniones, prima est eorum qui existimant eum qui rei sua valorem sciens viliori pretio vendiderit nostro remedio minime [...]sorio non iubari, et moventur ex eo quia scienti et consentienti non fit iniuria neque dolus, cap. scienti de regulis iuris lib. 6. quasi constituatur discrimen inter scientem et ignorantem, ita ut ignorantia adstante locus sit predicto remedio non vero e contra. Alij vero existimant in predicto casu predictum remedium locum habere et moventur ex eo quia neque in d. l. 2a neque in nostro textu neque in dictis legibus regijs aliqua distintio circa hanc rem adhibetur, sicque distintio admiti non debet iusta textum in l. non distinguemus, ex quibus duabus opinionibus posterior hec magis complacet neque obstat fundamentum pro contraria parte aductum, quia respondetur quod licet ius presumat venditorem rei vendita pretium scire, illa tamen presumptio ex alia fortiori elidibur, et confunditur iusta textum in cap. literas de presumptionibus, siquidem quis proprium patrimonium iactare non presumitur l. cum de indebito. 25. ff. de probationibus, unde authoritates in argumento aducta procedunt eo casu quo venditor in contractu expressit quod amplius est emptori donavit seu remisit, ac proinde predicto remedio non utatur cum illi posit renunciare, ut docent Donelus in l. 2a de rescindenda venditione n. 9. Pinelus, Alorla, et Tobb, ubi sup. =

Denique non obstat ultima dificultas deducta ex l. 1a ff. ex quibus causis maiores atque et alijs authoritatibus, probavimus nostrum remedium utile esse, eo quod [...]

sali multi alijs decepti succurrisset quia subiter dicimus quod licet alij iuridicis remedijs cautus esset deceptus tamen hoc procedebat respectu aliarum deceptionum non vero illius de qua in nostro tex. agitur, ad cuius succursum necessarium fuit predictum remedium et si alias alijs remedijs consequi possit certum est non nocere quemquam plura remedia habere, ut consequatur aliquid etc. —

Ex his omnibus et precipue ex nostra dicti iuris declaratione in subiunctim singula iura interpretando omitto inprimis textum in l. siquis cum aliter. 36. ff. de verborum oblig. et iura in confirmatione nostra conclus. adducta de quibus considerandi sunt tabor. Donelus. Odualdus et ceteri ea relati —

Itaque infero primum interpretationem ad textum in cap. cum dilecti 3. de empt. et venditione ubi hec proponitur species Abbas, et monachi cuius dam monasterij emerunt quandam silvam a canonicis cuius dam ecclesiæ eorum capitulo ignorante pro decem libris cum valeret quadraginta marcas et ultra de hac re Pontifex alexander tertius ad petitionem predicti capituli causam predictam terminandam commisit episcopo, et decano remensi, hac clausula quod litteris que illius cognitioni interesse requiret, alter eodem negotio procedere non differret id est clausula illa quod si non omnes que regulariter agonis rescripti solet, de qua extat mentio in cap. prudentiam 21. et in cap. cum causa. 22. de officio et potest. iudicis delegati, quo facto predictus decanus illius causæ cognitione processit, et cum ei per testes constitisset quod predicti religiosi silvam minus dimidia iusti pretij comparasset, protulit sententiam pronunciavitque venditionem non tenere, et canonicos in eius possessionem induxit, a qua sententia appelatum fuit ad Romanum Pontificem qui utriusque partis auditis allegationibus sententiam prioris iudicis revocavit, et precepit monachis, emptoribus predictam silvam restitui et si predicta emptio celebrata fuisset minus dimidia iusti pretij ecce textum ibi, et si sententia fuisset prolata per iudicem in fraudem faborem venditoris tamen revocatur et emptores in possessione permanent, ergo ex eo est quod predicta emptio valida fuit etiam si in pretio non dimidio esset facta ergo non recte in nostro tex. statuitur quod venditionem rescindi posse, et lesum etc. vel damnum recupperare — A qua difficultate, ut liberemur distinctionem constituendum est inter eum casum quo agitur de validitate emptionis, et venditionis quantumvis in ea deceptio ultra dimidium iusti pretij adsit, et inter eum quo agitur de eo quod habet venditor et de obligatione qua emptor tenetur primo enim casu certum est valere venditionem, et hoc est quod ait textus, in d. cap. 3. in secundo vero cum est in eo de quo agitur in nostro tex. etiam certum est emptorem teneri rem restituere, et pretium suppere, vel prestare, quod deest unde cum in d. cap. 3. ageretur de validitate predicti contractus merito anulata fuit prior sententia que anulabat predictam venditionem, et hoc ratione procedere, insinuare videtur in posterioribus verbis. tex. in illa ... videlicet in arbitrio predictorum religiosorum erat vel ... ex predictis duobus facere predicta iura quasi in eadem docentia in amicitiam redigit Panormit. in d. cap. 3. ... verum quamvis predicta solutio et doctrina vera sit adhuc quedam difficultas remanet

videbatur enim prior decani sententia confirmanda quatenus predictam venditionem anullaverat, et hoc colligi videtur ex illis verbis ignorante capitulo, qua denotant canonicos vendidisse predictas silvas absque capituli consensu quod quidem fieri non posse iure divino canonicum est, ut probant tex. in cap. 2 cap. nulli q. de reb. ecclesiae alienandis vel non, cap. sine exceptione q. 2 12 quest. 2ª iuncti quae tradunt citati in cap. 1 ergo ob defectum predictae solemnitatis non debuit valere predicta venditio, et potius decani sententia confirmari, quam revocari. In qua difficultate glosa in § Hostiensis, et alij antiquiores existimaverunt ideo sententiam revocatam fuisse, quia canonicos non obtinuisse licet alegasent, formam non fuisse servatam in predicta venditione, non tamen probaverunt defectum predictum idest capituli ignorantiam sicque tanquam non probatam minime prodesse potuisse, hec tamen opinatio recte explodit quia contrarium aperte ex verbis eiusdem capitis colligitur quam propter ea, et aliis omissis, verbiter dicimus, quod licet rerum alienationem rei ecclesiae absque iuridica solemnitate invalidam esse tamen Pontifex non anullavit contractum venditionis sed infirmavit sententiam decani quia canonici coram ipso non alegarunt, nec dixere capituli consensum in venditione defecisse, unde cum sententia debeat esse libelo conformis, cap. licet et de simonia et final. cod. de fidei commissis libertatib. et iudex non debeat proferre nisi super quo agatur, petitur cap. cum dilectus, de ordine cognitionum merito decanus super hac re non protulit sicque dum in secunda instancia coram Pontifice predictus defectus solemnitatis fuit propositus virtute cuius ipse precepit, ut emptores posesionem venditam restituerent, et pretium acciperent, et si cum ipsi germarierent restituerent quod dat erat, iusto pretio, et valori, docet hanc solutionem Cujacius in recitat. ad d. cap. 3°. de empt. et vendit. =

Rursus ex eadem decidendi ratione inferendum predicationem ad textum in cap. constitutus, de religiosis domib. ex cuius tex. specie aperte colligitur episcopum recte posse ius quod predictis ecclesijs habebat, eidem monasterio remittere dum tamen annua pensio octo denariorum annualium illi daretur, et tamen in hoc casu damnificata erat dignitas episcopalis in dimidia iusti pretij ergo quando ecclesia ita lesa est non habet remedium restitutionis de quo in nostro tex, = [illegible] numero 35. 33 [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] quilibet [illegible] quinquaginta [illegible] l. 34. [illegible] 14 [illegible] 5. [illegible] n° 56. [illegible] l. ff. [illegible] =

[illegible] de Religiosis [illegible] Molina [illegible] n° 68. [illegible] temporali [illegible] provinciae [illegible] =

[illegible] =

[illegible] Abbates et religiosi [illegible] =

[illegible] Ioannes de Balboa [illegible] =

[illegible]

[illegible] ... ordinario [illegible] remedio, tacere extraordinario [illegible] ... minoribus [illegible] ... minor [illegible] ... 60 n. 9. [illegible] ... n. 28. [illegible] ... simul occurrere [illegible] ... C. [illegible] ... Var. c. 3. n. 11. Ex quibus [illegible] traditionibus [illegible] ... ordinario remedio [illegible] ... extraordinario [illegible] ... remedio [illegible] ... Var. cap. 3 [illegible] ... remedio [illegible] ... [illegible]

Verum licet [illegible] ... [illegible] ... n. 62 usque ad 80. [illegible] ... n. 4 usque ad 28. [illegible] ... n. 47 [illegible] ... n. 31 [illegible] ... cap. 13 n. 47 [illegible] ... [illegible] explicat, et interpretatur.

[illegible] Constitutio [illegible] ... [illegible] ... Si mulier [illegible] ... [illegible] ... remedium [illegible] ... [illegible] ... cap. 17 [illegible] ... minoribus [illegible] ... [illegible] ... venditio [illegible] ... n. 36 [illegible] ... [illegible] ... n. 7 [illegible]

[illegible] ... [illegible] ... [illegible] ... remedio [illegible] ... tempore [illegible] ... [illegible] ... [illegible]

[illegible] 37 [illegible]

[illegible] tuum ne cor[?] [illegible] 4. [illegible]

lib. 3. tit. 19.

Scheda 36.

Inmutis [illegible] ex Concilio [illegible]. Ex quibus [illegible] quidam [illegible] ... mancipia, quae in [illegible] potestatis translata fuerint. [illegible] videbat [illegible] rectores [illegible] permutare, quando [illegible] posse [illegible] de quo in [illegible] mentio. ex qua [illegible] ... non posse, nisi [illegible] sint, quod probatur ex decis. [illegible] in cap. 2., c. 3. et 4. de rebus eccl. alienandis [illegible] probatur [illegible] mancipia [illegible] ... permutat. [illegible] ... cap. [illegible] 12 q. 2. probatur [illegible] in cap. [illegible] 58. [illegible] 12 q. 2 [illegible] in cap. sine exceptione 52 [illegible] ... c. 1. de [illegible] c. 2. [illegible] c. 1. 10. q. 2. [illegible] de rebus eccl. alienandis [illegible] autem de rebus permutandis ... alienandis [illegible] alienationis [illegible] permutare [illegible] Abbatis Immol. Innocentius, et [illegible] antiquiores [illegible] scribentes. Barbosa [illegible] allegat. 95. n. 55. [illegible] alienationis n. 62. [illegible] eccl. alienandis [illegible] cap. 4. [illegible] de extensione emphiteusis. cap. 50 n. 36. Quaranta in Summa Bullarii [illegible] alienationis rerum eccl. [illegible] decis. 74. [illegible] plurimi quorum [illegible] referam =

Scilicet secunda Decisio verissima videatur, tamen difficilis redditur ex sequenti [illegible] ... cuique liceat de rebus suis [illegible] generis, quilibet que in re sua moderator, et arbiter intelligatur, l. in re mandata C. mandati, § [illegible] ... [illegible] et Vulgatis, videbatur [illegible] rebus de [illegible] servis disponere posse, et permutare arg. [illegible] in cap. 1. [illegible] de rerum permutatione ... [illegible] videatur imminere, siquidem ... [illegible] sepissime posse [illegible] rectores, disponere, maxime quae [illegible] permutatione [illegible] Pinetus in [illegible] l. 1. [illegible] n. 10. C. de rescindenda Venditione, videbatur ... [illegible] permutationem admittenda esse.

Hac Dubitatione [illegible] dicendum [illegible] verissimam esse [illegible] permutationem ... [illegible] Cuius rationis [illegible] in primis animadvertendum quod [illegible] verbum permutationis [illegible] generale esse [illegible] significavet [illegible] contractum speciem [illegible] aliquid. [illegible] tamen [illegible] utrique [illegible] res vendita cum precio permutatur [illegible] locat [illegible] cum opera [illegible] accepta [illegible] specialiter accipitur [illegible] ab aliis contractibus [illegible] atque distinguitur [illegible] permutatio [illegible] permutat. [illegible] contractus [illegible] re et consensu constat [illegible] rerum permutatio [illegible] tunc fieri intelligitur [illegible] pro genere [illegible] res [illegible] commutatur [illegible] pro eadem commutatur [illegible] controversiam [illegible] alios defendit et dicit [illegible] 1 [illegible] cap. 1. n. 10 [illegible] permutationem non solum rerum corporalium cum corporalibus admittit [illegible] Vendit. [illegible] permutationem [illegible] temporales, Veluti fundus cum annua pensione [illegible] etiam cum incorporalibus [illegible] temporales [illegible] adeo verum est. ut si temporalia cum spiritualibus commutet [illegible] alienat. Verbum [illegible] permutat. [illegible] sine [illegible] commutat. [illegible] cum auctoritate [illegible] commutent. Valet permutatio [illegible] procedere debet.

[illegible] Secundum est permutationem quae [illegible] dum emptionis et venditionis introducta [illegible] aliquando procedere posse [illegible] ... permutatio [illegible] rebus quae ecclesiasticae sunt [illegible] circa quam ... [illegible] quae in alienatione rerum ecclesiasticarum [illegible] valeant requiruntur [illegible] in cap. nulli [illegible] de rebus eccles. alienand. [illegible] in permutatione [illegible] scribentes [illegible] duplicem solemnitatem alienatione [illegible] distinguentes asserunt [illegible] alteram a iure civili [illegible] Una enim a iure canonico inducta [illegible] ecclesiae [illegible] Primasi ... a iure canonico requirebatur [illegible] in concilio Carthaginensi relato in cap. [illegible] 12 ... Solemnitas ergo quae a iure canonico [illegible] solemnitas cum consensu [illegible] solemnitate [illegible] in concilio [illegible] relato in cap. [illegible] 12 q. 2 a quo [illegible] quod [illegible] in concilio Agathensi relato in cap. [illegible] subrogata fuit [illegible] servari [illegible] consensu [illegible] eccles. alienand. [illegible] in 6. [illegible] in cap. 1. de rebus eccles. alienand. [illegible] de iure [illegible] civili [illegible] in permutatione [illegible] solemnitas [illegible] 12 q. 2 [illegible] extravagante Ambitiosae [illegible] 14. C. de sacrosanctis eccles. [illegible] 11 q. 2. ... introducta [illegible] enim mentio [illegible] Gratianus in cap. [illegible] enim § [illegible] in authentico [illegible] non alienand. [illegible] a iure civili statuta [illegible] in decreto [illegible] solemnitas [illegible] a iure civili in decreto transcripta eam habere auctoritatem quam ... [illegible] a Gratiano in decreto [illegible] Gratianus [illegible] leges [illegible] auctoritatem non constitutum esse [illegible] 12 q. 2. [illegible] auctoritatis [illegible] in cap. [illegible] 12 q. [illegible] habet. Unde solemnitas quae [illegible] in cap. [illegible] Volunt aliquam permutare rem [illegible] ... [illegible] scribentes in cap. 2. de rescriptis [illegible] alienatio [illegible] ... [illegible] qui [illegible] ille qui [illegible] proponit, et [illegible] suffragium exquireret [illegible]

cuji

majoris partis interveniente consensu poterit permutatio fieri arg. tex. in cap. 1. nr. de his quae fiunt a majori parte Capituli, nec tunc tres sunt necessarii, imo sufficit et ut uno tantum, hoc ostendam videndus est tex. cum allegatis in d. cap. sine exceptione 52. 12. q. 2. Haec et alia ad hanc permutationem pertinentia videantur. =

His praepositis animi mei Decidendi ratio elucescit. asseveramus quod permutatio Servi etiam cum profanis facienda minime est, ex eo quod procedit, quoniam cum permutatio sit alienatio continet sic probat Corenatus in l. alienationis ff. de V. S. l. natur. 5. §. 2. de praescriptis verbis, eius dominium in accipientem transferat, l. obligationum 77. §. ult. ff. de V. O., ex qua rei sacrae dominium quomodocumque dat, nunquam quae ecclesiae auferre sit illud accipere, Evenit inde et permutatio huiusmodi servi cum profanis locum habeat, Accedit quod nemo potest plus iuris in alium transferre, quam ipse habet ipse. l. nemo potest ff. de Regulis iuris cum vulgatis. Dominium quae locus servorum Praelatis non sit, evenit etiam aliis transferre nec permutare, tradidit ita Barbosa de potestate episcopi allegatione 95. n. 55. qua decidendi ratione dicta proposita dubitandi ratio non obstat. Vicebatur posse praelatus servitium disponere ... ex d. l. in remandata mandati cum vulgatis, nam enim haec regula locum habet, quando praelatus deficit, ... adest, rationique consentanea, si quidem necessariis rebus insufficit, ut damnum immineat, imo vero eadem auctoritas non deficit, ... deficiat nulla obstante dubitandi ratione asseverandum est hanc permutationem tamquam licitam ... requirendam tradit Pinelus in rubrica C. de rescindenda venditione 1. p. c. 1. n. 20.

Ex quadecima ratione ... Angrimus ...

ad illa verba notabis ubi cum Canonica authoritas servos tantummodo permutat ... fugitivos ... quibus verbis aperte colligitur quod ... alios servos ~~...~~ ecclesiae proprios non possent permutari ... tamen si sint fugitivi distrahi ... facile hoc videtur ex eo nam cum servi ad ecclesiam confugiunt ... praecunctis quam distrahendum a ipsa est. ~~...~~ iuxta textum ... et textum ... adecclesiam ... quorsum ... Sed ... quomodo distrahi prohibetur confugium ... Verba discrimen constituens inter hoc verbum fugitivum et verbum confugientem ... interpretatur, ... verbum fugitivum intelligitur ... ad ecclesiam ut a servitio domini sui ... ~~...~~ ad ecclesiam ut a servitio domini sui ... furtum commisisset is enim fugitivus qui malo animo ab ipsa met ecclesia fugiens ... furtum commisisset ... Ut eleganter docet Ulpianus ... quid sit fugitivus 17. ff. de edilitio edicto ... adipsam met ecclesiam ... tres ... ff. de servis fugitivis at vero verbum confugiens ... adipsam met ecclesiam ... fugiens accipi debet ... ratio quare servus sese recipit a servitio domini fugiens ... quod ... servo ... fugitivo ipsius met ecclesiae distrahi potest, ... quoniam ... ecclesiae ... ecclesiae afferre potest. cumque ... ecclesiae ... anuenitur nunquam. commodum imo ... damnum ipsi ecclesiae ... servos fugitivos distrahat ecclesia ... praeoccultis ... utilitas semper sit habenda ... ab emptore ... poterit ... hoc demonstrat emptori alias tam ... ecclesiae ab emptore ... exemplo ad hoc ... l. Julianus emptor experiri valebit ... exemplo ... Julianus ff. de ... damnum quod ex vendit. passus est consequatur. Ut probat tex. in l. Julianus ff. ... ad ... et ita explicavit ad ... textum. Et observavit Abbas Panormitanus ad ... textum ... ad singularem textum et difficilimum ... Episcopi ...

Confer ... interpretatur ad singularem textum ... in cap. Episcopi: ... 129. ... ubi ... verborum concil. ... proponit speciem Episcopi quidam servum ... sibi ... manumittere desiderat nullo patrimonio ecclesiae retento super hoc ... eccl. ... et respondit ... Ut hoc manumissio procedere ... subscribentibus Sacerdotibus ... Episcopo ... servos ... pro commutatione ... ex eo provenit, quoniam ut praediximus ... plurima ... hoc textum ... ad ... explicat ... permutatio servorum aut commutatio simpliciter facta ... contra ... non valet. ... accedat clericorum consensus fieri potest, ... consensu ... nullatenus permutatione perfici posse nam ... quem manumittere ... servum ab ipsa ~~...~~ ecclesia permutatione ... ut ... quilibet servus ... praestare liberae. Et ut eleganter notat glossa in ... textu ...

eius domino bonitatem praestare tenetur. quo supposito sequens insurgit consideratio scilicet num consentiente clero servorum ipsius ecclesiae permutatio episcopo concedatur cum Concil. Toletanum in praesenti praeter cleri consensum aliorum servorum praestationem ad hoc ut unius servi manumissio obtinere posset desiderat. Praeterea illa nec levem habet difficultatem quoniam episcopus servum ecclesiae bene meritum manumittere potest libere absque ulla cleri accedente auctoritate si ecclesiae vineolam aut ancillam loco servi manumissi praestaverit ut probat textus in cap. quicumque 66. 12 q. 2 a. conducunt textus in cap. de libertis 63 et cap. liberti 65, cum aliis

[illegible] Sed in horum textuum assertione servus bene meritus potest ab episcopo permutari, et tamen [illegible] bene meritus sit, praestare libere [illegible] permutatio [illegible] clero accedente, si defficeret [illegible] servi [illegible] difficultati [illegible] patrocinio, et [illegible] servum bene meritum manumittere volebat nullo [illegible] reservabat [illegible] manumissi [illegible] in cap. [illegible] Toletanum [illegible] erat. [illegible] servus erat bene meritus, et fuit reservatus patrocinium [illegible] satisfacio difficultati [illegible] ita Barbosa loco allegato. =

Item in [illegible] episcopus [illegible] rebus ecclesiae aliend.

[illegible] asserit [illegible] hic proponit. species [illegible] ecclesiae servus [illegible] praelat. [illegible] debeat libertatem praestare. quaeritur an hoc casu utrum talis libertas praestita valeat [illegible] Concil. Toletanum [illegible] pondit aut hic praelatus aliquid ecclesiae praestitit pro huiusmodi libertatis remuneratione, aut non. [illegible] manumissio valeat, sin praestitit non valeat. ratio, quoniam qui res suas ecclesiae [illegible] damnum eius [illegible] inferre [illegible] ergo asserunt Concil. Toletan. tunc manumissionem validam non esse [illegible] huic sententiae adversari textus in cap. [illegible] rebus ecclesiae alienand. [illegible] ex eodem Concil. desumpto [illegible] asserit [illegible] posse episcopos aut presbyteros manumittere servos ecclesiae [illegible] quantitatem honorum quae [illegible] ecclesiae contulerunt. idem [illegible] auctorem [illegible] sententiae [illegible] libertatem valere [illegible] confirmari esse [illegible] [illegible] debeat intelligi cum bona [illegible] [illegible] asserit posse manumittere episcopos servos ecclesiae [illegible] ecclesiae servicio. [illegible] asserit non servorum manumissioni praestiterunt [illegible] condonare huiusmodi servus intelligi debet cum nulla [illegible] posse episcopos libertatem [illegible] remunerent. huiusmodi libertatis [illegible] hoc enim [illegible] generaliter [illegible] Concilio Agathensi Canone 7. [illegible] textus in cap. [illegible] anno 57. 12 q. [illegible] Concilio [illegible] alienationem [illegible] sine licentia Concilii provincialis proponit prohibitio [illegible] ecclesiasticarum [illegible] generali proposita casus specialis [illegible] servabatur contra [illegible] cap. [illegible] regula generali [illegible] valeat si tantum [illegible] libertatem servi ecclesiae praestitit [illegible] nulla [illegible] episcopus [illegible] favore libertatis procedit adeo [illegible] servi pretium [illegible] Barbosa loco citato [illegible] cap. 3. [illegible] rebus eccl. aliend. [illegible] procedat [illegible]

[illegible] quicumque 66. 12 q. 2. [illegible] proponitur a Concilio Toletano species [illegible] aliquid bene [illegible] promissit [illegible] [illegible] praelatus [illegible] praedicti bene [illegible] Toletano [illegible] episcopus [illegible] ecclesiae contulerunt [illegible] Concil. [illegible] solemnitatis [illegible] compellendus [illegible] libertas [illegible] solemnitas [illegible] libertatis [illegible] Barbosa [illegible]

[illegible]

7

Tertium cum fort interpretatur ad Concil. Carthag. Canone quod refert Burchard. lib. 3 decretorum cap.
ubi nullus servus nec emancipia ecclesiastica [illegible] nisi ad libertatem commutet. Videlicet ut mancipia
quae pro ecclesiasticis ordine dabuntur in ecclesiis servitute permaneant et ex quibus verbis aperte [illegible]
mancipia ecclesiae permutari [illegible] cum libertatem permutantur ut manumittantur [illegible]
asserit servos ecclesiae permutari cum [illegible] non posse hinc difficultate [illegible]
[illegible] hanc permutationem valere quando ex ea nullum damnum ecclesiae accidit [illegible]
ecclesia habet servum et extraneum etiam tunc [illegible] interveniat ut servum ecclesiae manumittat
et servum extraneum ipsum ecclesiae permaneat hinc enim cum nullum damnum proveniat ecclesiae [illegible]
non est hanc commutationem seu permutationem valere hoc enim modo [illegible] intelligen- in cap.
mancipia 3. hoc non [illegible] permutationem ubi permutatio mancipii non admittitur nisi ad liber-
[illegible] omne difficile [illegible] si hic servus semel de ecclesia [illegible] conservat [illegible]
usus humanus pervenire potest ut corpus met [illegible] et extraneus semel de
[illegible] difficultate in [illegible] dicendum est hanc permutationem [illegible]
[illegible] valere [illegible] nullum incommodum ecclesiae imminet
favore libertatis [illegible] propter [illegible] ut dixi [illegible] constituta.

[illegible] Gre-
[illegible] ecclesiastici 67 [illegible] hic [illegible] nomine
[illegible] eloquentissimus vir consiliarius [illegible] Pontificis dicti Gregorii [illegible]
[illegible] cum [illegible] ipse Pontifex ei mancipium [illegible] donat. [illegible]
donavit quaesitum fuit utrum haec donatio valeat necne valeat [illegible] servi donat. [illegible]
voluntate Gregorii [illegible] haec donatio valet multo magis et permutatio [illegible]
cum in permutatione res pro re traditur in donatione [illegible] nihil invenitur ut perfecta donatio
[illegible] difficultatis [illegible] varia circumferunt aliqui dixerunt [illegible]
[illegible] intelligendum esse de servo [illegible] qui [illegible] erat dedicatus [illegible] etiam in [illegible]
monachali constitutus [illegible] si haec donatio facta fuit abbati alicuius monasterii valet [illegible]
[illegible] ratio [illegible] cessat cum [illegible] divino cultui mancipetur [illegible]
doctrinam tradunt Panormitan. in cap. ut privilegia de privilegiis [illegible] Cardinalis
[illegible] de decimis [illegible] plurimi. Verum haec solutio [illegible] vera [illegible]
tamen [illegible] nec verbis textus adaequata quare [illegible] alii
[illegible] asserunt [illegible] hunc textum [illegible] de servo cultui divino dicato [illegible] de servo [illegible]
[illegible] sic [illegible] donationem valere [illegible] textus hoc enim [illegible] verba
textus requirebat sustineri [illegible] Marcellus [illegible] in hoc textu asserit de permutatione [illegible]
[illegible] Verum haec cum [illegible] defendimus. Quare [illegible]
verior explicatio de [illegible] verbis ipsius Gregorii relatis [illegible]
sumptis est textus [illegible] ecclesiastici ubi cum Gregorius concedit [illegible] donat [illegible]
cultui divino inserviturus [illegible] ut de iure ipse [illegible] retineret [illegible]
num alter hoc [illegible] hoc enim satis insinuat Gregorius [illegible] Verum
[illegible] expresse [illegible] successor aliquis [illegible] donat [illegible] revocare [illegible]
[illegible] et [illegible] verba Gregorii [illegible] ex quibus haec solutio [illegible]
[illegible] canone ecclesiastici dict.

In libro Antiquitat. ad hanc incip. Et illi Reg. 129 I. Sed propositis [illegible] mentis fit de errore eorum [illegible] illorum qui libertatem servis ecclesiae conferebant [illegible] eiusdem [illegible] condonantes magnum erat eorum audatia cum [illegible] solum [illegible] ecclesiae erogabant [illegible] ergo erat auferebant contrarium audatiae [illegible] ergo Concil. Toletanum [illegible] animarum dantium incideres [illegible] revocandum esse [illegible] non [illegible] opportune sane et subtilissime quia illi servi manumissi cultui divino [illegible] consequenter [illegible] manumissione facta [illegible] libertate [illegible] cultui divino subtrahebant. Contrarii [illegible] regulae cum maxime adversus ecclesiae utilitatem et cultum divinum [illegible] peccarent [illegible] [illegible] Canone Et illi illa proponuntur verba quia propter episcopi [illegible] proprio ecclesiae [illegible] Christi compensaverunt hanc divinae sententiae metuant. Et libertos [illegible] ecclesiae ad condemnat. sue facere non [illegible] sumant [illegible] explicandum [illegible] ex d. canone in illis verbis, ne elemosyna unius alterius peccatum fiat [illegible] verborum [illegible] Et illi ille [illegible] si forsan ab aliquo elemosynae gratia ecclesiae [illegible] inter viros donetur. [illegible] et hunc sine compensatione et remuneratione episcopus [illegible] prelatus commutet [illegible] manumittat [illegible] manumissio et commutatio [illegible] [illegible] elemosyna alterius [illegible] donantis [illegible] fiet peccatum [illegible] episcopi [illegible] male manumittentis et [illegible] commutantis ut eleganter explicat Abbas in [illegible]

Ulterius inferri [illegible] explicatio ad [illegible] in cap. nulli de rebus eccles. alien. [illegible] in illis verbis servus rusticus, qui [illegible] [illegible] ecclesiae [illegible] 129.

Deinceps infertur interpretatio ad [illegible] in can. Cum redemptor [illegible] 129.

Denique ad [illegible] in c. ~~antiquis~~ 54 dist. [illegible]

Relatio ad [illegible] in cap° [illegible]
[illegible]. Die 5° mensis Martii
anno 1677. — — — — —

Schedas. 37. 336

Ad cap. Lator. 2. de pignerib.

[illegible] respondemus hoc [illegible] Lex habet, ut homo liber [illegible] teneat, [illegible] qui [illegible] delicto addici. Ex quibus [illegible] aperte reperimus liberum hominem neutiquam pignorari posse, etsi deficiant res quae possint creditori cedi. Ex [illegible] hoc deprimimus [illegible] Homo liber pignorari [illegible], etsi nullae sint res [illegible] delicto addicantur [illegible] probat [illegible] tit. 21. 1. § [illegible] ff. [illegible] qui respiciunt obligari [illegible] l. inter stipulantes 83 § sacram de V. O. [illegible] homo liber [illegible] ff. [illegible] l. sol. [illegible] l. pacta [illegible] § [illegible] de [illegible] empt. [illegible] de O. et Actionibus [illegible] C. quae res pignori, authent. [illegible] § [illegible] collat. 9. § idem [illegible] inst. de inutilibus stipulationibus [illegible] Regiam [illegible] 3. [illegible] ultra ordinarias [illegible] Abbas [illegible] Jason [illegible] Bartolus, Salicetus et Fulgosius, et ceteri [illegible] civilis antiqui interpretes [illegible] l. inter stipulantes § sacram de V. O. [illegible] membro 3. n. 50, Medices [illegible] C. quae res pignori n. 25. et 26. Menochius lib. [illegible] centuria 2. casu [illegible] 3. [illegible] variarum [illegible] Commentar. [illegible] Lud[illegible] Hermannus, et Richardus, et reliqui glossographi in § idem [illegible] inst. de inutil. [illegible] Cujacius in recitationibus [illegible] cum sequentibus [illegible] empt. cum pluribus [illegible] ab [illegible] ad [illegible] lib. 27. [illegible] 3. [illegible] et alii plures [illegible], ne plurimos [illegible] ===

Dubitandi ratio [illegible], nam homo liber carcerari potest [illegible] aliquod debitum excruciari, [illegible] ex cap. [illegible] D. [illegible] Ambrosius inter [illegible] charitatis [illegible], si fortasse quis [illegible] fuerit in carcere detrusus, [illegible] delicti aliquod excruciatus [illegible] liberi [illegible] aperte liberum hominem [illegible] carceri [illegible] et pro pignore retineri poterit, cum [illegible] carcere [illegible] si homini [illegible] detur [illegible] tur [illegible] excruciare [illegible] ubi cum aliquis [illegible] pecuniaria [illegible], [illegible] habeat et solvat, in corpore puniatur [illegible] liber homo pignorari potest, [illegible] deficiant bona, [illegible] liber remanebit, immo [illegible] corporales sustinebit. ===

Qua dubitandi ratione non obstante verissima [illegible] nostri decisio [illegible] hominem liberum pignorari [illegible] res [illegible] debitor [illegible] aperte [illegible] reperimus oportet. [illegible] Lege duodecim tabularum et audacia hominum [illegible] delictis [illegible] Capitis [illegible] Valente [illegible] creditore [illegible] adjudicabatur [illegible] vendiderat [illegible] creditori [illegible] [illegible] Dies habeto [illegible] [illegible] [illegible] Gellius lib. 20 [illegible] Baldus [illegible] empt. [illegible] Aulus Gellius [illegible] Lege duodecim tabularum [illegible] anno ab urbe condita [illegible] [illegible] Imperatorum Diocletiani et Maximiani [illegible] [illegible] Libera [illegible] [illegible] homo liber [illegible] [illegible]

[illegible] Valentis [illegible] dum tamen [illegible] [illegible] Consulti [illegible] [illegible] directa [illegible] competit [illegible]

Et hoc ut rem pignoratam creditor restituat una cum fructibus et damnis dolo et culpa creditoris commissis ratio est nam cum pignus utriusque gratia contrahatur et creditoris et debitoris ut ei magis peccunia credatur et creditoribus ut securius solveant debiti ideo dolum et lata et levis culpa prestetur, non vero de levissima tenetur, neque adeasi fortuitu adstringitur [illegible] credita gesta quibus modis recontrahatur obligatio lege contractus 23 ff. de regulis iuris licet [illegible] actio directa debitori [illegible] domino competat lege debitor et pigneratitia actio contraria vero creditori concedatur adversus debitorem ut recuperet illud quod circa pignoratum necessario utiliter impenderit variosque casus quibus pigneratitia contraria creditori competat adversus debitorem retullit [illegible] ubi supra numero 3 qui etiam docent inquo pigneratitia ab hipotecaria differat actione.

His itaque positis apparet enim decidendi ratio ad nostrum textum nam cum constituto pignori nequam consistere posset nisi in rebus domino sint subiecte [illegible] lege 1 quae res pignori [illegible] unde evenit quod cum liber homo non sit in commercio nec in bonis nostris [illegible] inter stipulantem § sacram ff. de V. O. ideo nec pignus consistere potest [illegible] [illegible] assignavit [illegible] in presenti numero 20. [illegible] incongruum nulli [illegible] ecclesie numero 2 [illegible] accedit [illegible] ratione hominis ad similitudinem Dei esse creatum [illegible] omnia [illegible] [illegible] nam esset hominem rebus equiparari. Neque obstat dubitandi ratio superius adducta ex capitulo [illegible] 86 distinctione nam etsi ibi asseratur carceri emancipari debitores esse non inde sequitur pignorari posse sicuti neque in creditoris securitatem constitui potest [illegible] [illegible] alienum C. de oblig. et act. neque oppugnat [illegible] asserere inter operis bona connumerari eximere in carcere [illegible] [illegible] legum [illegible] [illegible] autem est qui debet et non solvit sed carcerari est [illegible] iuri.

— Neque obstat argumentum dubitationis ex capitulo sicut 14 [illegible] discrimen est constituendum inter casum quo quis aliquid ex contractu debet et inter eum quo ex delicto neque primo casu puniri debet [illegible] cedat bonis lege 1 C. qui bonis cedere possunt [illegible] puniri [illegible] et pena infligitur cum reipublice expediat delicta impunita non manere lege ita vulneratus ff. ad legem Aquiliam quo casu loquitur [illegible] capitulo sicut 14 § 6.

Non me latet plura de legantia iuris Cesarei responsa ex hac decidendi ratione lucem accipere verum quia non est institutum Pontificum ac Patrum dicta explanare ideo omnia iura [illegible] ex iure canonico provenientia omitto ergo imprimis [illegible] lege liberis et in lege si usumfructum ff. de liberali causa [illegible] in lege [illegible] ff. si ex [illegible] causa agatur de quibus Curat. [illegible] observatione 3 capitulo 87 [illegible] etiam in lege [illegible] 20 § potestatis ff. qui testamentum facere possunt lege senatus § 1 [illegible] ff. de leg. 1 [illegible] C. de captivis et postliminio [illegible] etiam in lege 1 [illegible] C. qui bonis cedere possunt et [illegible] in lege 4 et in lege liberi 70 ff. de contrahenda emptione de quibus videndus idem Curat. et [illegible] in rationali ad d. lege 5.

Atque accedens inprimis [illegible] ad difficile [illegible] [illegible] [illegible] relatum in capitulo ex rescripto quod de iure iurando ubi talis proponitur species quidam abbas cum gereret nomine a [illegible] peccuniam quantitatem adepisci monasterii [illegible] eandem petit aquodam extraneo mutuo eam accepit [illegible] ut securus [illegible] remaneret conventum fuit ut certo tempore [illegible] credita peccunia [illegible] pro cuius securitate eiusdem monasterii monachos in obsidium [illegible] qui iuraverunt de tali conventione servanda [illegible] ipse met abbas quemdam nobilem pariter qui ipsius uxorem [illegible] [illegible] [illegible] [illegible] [illegible] fuerint monachi creditor absque peccunia credita remaneret. [illegible] iuraverunt omnes defecerunt [illegible] adimplenda conventione quesitum fuit an omnes isti obstringantur [illegible] [illegible] et respondet [illegible] mandandum ut secundum iuraverunt eandem conventionem faciant adimpleri.

aget

aperte probat Dominus Silben pignoral et Valere Segundo Greg. de obsidibus pign. ... cap. simpliciter. 23 q. 8.

Rursus Vera explicat scindum est interpretes in presenti vario dixisse aliqui dixerunt ... in presenti obstrictos esse vinculo pignoris quoniam ... Pontificis ... auctoritatis videlicet pro publica utilitate ... propter conservanda ita dicunt glossa ... cap. ex rescripto verbo obsides ubi Abbas n. 7. Verum hec interpretatio manifeste ... exco nam textus ... cap. ex rescripto non loquitur de pace publica auctoritate ... exprese constat Monachos propter ... pignoratos esse quare Baldus et ... existimant ... cap. ex rescripto ... cum ... possunt constituere obsides ... ff. de ... glossa ... ipsis servis equiparantur ... integ. ... sustineri non potest ... clericos ... arbitrii ... interpretatio sustineri non potest ... excommunicationis nec potuere in vinculo ... excommunicationis cap. nuper 29 de sententia excommunicationis ... effici quoniam ... excommunicationis ... cap. ... consang. 36 ...

Quare ... et ... indeciso tempore ... ut ... illos ... qui ... frangatur ... potestas ... obsides ... ita obsides ut ... cap. ... n. 7 ... ex rescripto ... iuramento ... Abbas ... n. 1 ... n. 9 ... alegatione ... contineri ... tale iuramentum ... servitutem ... Abbas ... ex rescripto ... servitutem induci quoniam ... Monachos ... Alexander ... in ... Liberari ... propter illam difficultatem ... antiqua ... qui ... interpretes ... in ... expositione 11 ... Rurs. ... compromisso ... Super quibus compromiserunt ... ab utraque parte ... in obsidibus ... Fernandi ... contra sententiam ... legati ... dicens ... Concordias post ... a legato prolata valere

dominos a duce in iniciis [illegible] - ecce Ubi capitalis compromissi
ab [illegible] domini liberi pignoratio, [illegible] domini liberi pignoratio
[illegible].

Tertio dicendum est dupliciter accipi posse hoc nomen fide L.
Alij enim ut dixi [illegible] qui pro pace dantur ab [illegible] hi enim libertatem amittunt de cuius significatione intelligendi sunt [illegible] obsides [illegible]
[illegible] commodo ff. de iure fisci. alij autem sunt qui pro securitate
contractus et conventionis interpretatione accipiuntur. Ut enim servi
non sunt [illegible] libertatem retinent [illegible] docet [illegible] in summa
verbo obsides [illegible] de quibus accipiendus est [illegible] in d. cap. exposita de
arbitris.

Quinto infertur integritatem ad decisionem [illegible] decretum
relatum [illegible] Eduardus S. de [illegible] Ubi [illegible]
Eduardus nomine sacri [illegible] quibusdam [illegible]
clerico [illegible] quandam pecuniae quantitatem [illegible] fuit [illegible] deinde [illegible]
[illegible] Eduardus coram officiali remensis episcopi [illegible] archidiaconi [illegible]
[illegible] exhibita presentia confessus fuit talem pecuniae quantitatem
debere [illegible] propter [illegible] solvere et valere [illegible] praefatus
officialis remensis archidiaconus eundem Eduardum excommunicavit [illegible]
[illegible] domino papae qui [illegible] respondet [illegible] Eduardus
[illegible] solvere et habeat ipsum absolvat [illegible] cautione [illegible] ad
[illegible] solvere teneatur.

In Ubi huiusmodi Eduardus clericus prodeunte excommunicatione
[illegible] capitis [illegible] obstringeretur. Ac si quodam iure pignoris [illegible]
[illegible] domini liberi pignoratio iure [illegible] admittendo [illegible]
[illegible] repugnandum erat.

Non [illegible] dicendum est [illegible] dicta
Nemo [illegible] in d. cap. Eduardus 3. [illegible] solvere [illegible]
integritate [illegible] est clericus [illegible] Unde satis facere posset
ex privilegio clericali non teneri [illegible] nec creditori servire
nec carcerari propter dignitatem sic [illegible] immunia
[illegible] ceteri antiquiores in d. cap. Eduardus [illegible] in clerico [illegible]
iure [illegible] habet [illegible] [illegible]
[illegible] tridentinis sess. 23 cap. 6. Scholasticos [illegible] privilegio
[illegible] in authentico [illegible] C. [illegible] pro patre nec potest iure
privilegio renuntiari nisi equitas suadeat [illegible]
[illegible] proposita [illegible] data est [illegible]
[illegible] [illegible] pro tunc non teneri excommunicatio

[illegible] quem fuit extincta [illegible] a [illegible]

[illegible] ad [illegible]

Nec bene [illegible] obstat [illegible] in [illegible]

de fide iussoribus. Ubi clericus fide iussor. qui pro aliis. clericis [illegible] [illegible] potest. [illegible] ipsos [illegible] clericos [illegible]

[illegible] Etiamsi ipse opponant exceptionem [illegible] [illegible] clericis privilegio hoc non gaudet. immo non obstante hac except. [illegible]

adeo in hoc casu clericos [illegible] ex fructibus. assignata fuit illis quod [illegible] [illegible] adeo sustentat. [illegible] fructibus [illegible] [illegible]

[illegible] authentica [illegible] [illegible] pro patre.

[illegible] accedo. ad [illegible]

[illegible] [illegible] libro 6 [illegible] Iudicum fit. quod in Anglia et Alemania observabatur. videlicet. Ut si a [illegible] damnum inferret alteri ex regno [illegible] posset. damnum [illegible] quem libet. ex illo populo capere. et detinere [illegible] dum. ex [illegible] satis factum esset. cum [illegible] [illegible] [illegible] Statutum fuit [illegible] in Concessio generali [illegible] Lugdunensi. Ut si quis capiet. aliquem clericum [illegible] praeter quod [illegible] [illegible] pro [illegible] excommunicat [illegible] et capientis [illegible] [illegible] ad hoc Ut tali pena excommunicat [illegible] ad hue [illegible] Et per consequens [illegible] [illegible] consuetudo. ad hue [illegible] et per consequens [illegible]

libet [illegible] potest.

[illegible] explicat [illegible] in hoc [illegible] [illegible] mentione quorumcumque [illegible] [illegible] clarigatio [illegible] [illegible] clarigationis [illegible] [illegible] [illegible] [illegible] represaliis. clarigatio [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Et sic [illegible] [illegible] [illegible] admissa [illegible] [illegible] lib. 38. cap. 8. [illegible] admissa [illegible]

[illegible] [illegible] [illegible]

[illegible] [illegible] [illegible]

Prodeant iam in lucem Iurisconsultorum clarissimorum responsa.

Inter primum expedita rati ... interpretatus ad tex. in l. liberis, et in l. si usumfructum vers. in summa ff. de liberali causa, ubi expresse
probatur hominem liberum vendi posse, seu pignorari, cum ea venditio dominium in emptorem transferat, et pignoris dominium penes debitorem
remaneat ex principiis vulgaribus. Id quod est ... procedere in eo, qui cum liber esset passus est ad pretium participandum se
se venumdari, quo concurrentibus quinque relatis a Stat... [illegible] servi aut nascuntur aut fiunt in l. de statu personarum probata a Doctoribus
in l. 1. et servorum ff. de statu hominum, et ... l. 1. tit. 2. ... 4. inst. ad libertatem proclamare, quod servus efficitur iure civili, ... servitus
...t probat in d. l. liberis 7. de liberali causa. = Qua solutio intelligendi est tex. in l. si quis filio §. uniq. ff. de iniusto rupto, ubi
in l. cuius 4. ff. de ... Nec obstat quod homines liberi essent, aut expressa voluntate suum statum nec mutare nec minuere possit arg.
tex. in l. liberos 39. C. de liberali causa cum traditis a Gotofredo. Nam dicendum est hoc procedere ex sola hominis voluntate, aut
Menz ex legis authoritate ... cedere, nempe ex senatusconsulto Claudiano, et colligitur ex tit. 3. unde epigraphe legis fin. ff. qq. ad libertatem
proclamare non licet, qua amissione libertatis punitur dolus, eo imputandus facti liberi hominis, qui desiderio pecuniae se passus est vendere
[illegible] statum venditi ignoravit, talis homo tamquam indignus libertate, ad illam proclamare prohibetur, sicut illi, qui libertas fidei
commissaria debebatur, si simulata sua conditione se venumdari patiatur, is quoque ut indignus censetur auxilio ... fideicommissa-
riis, et ad ... Lucius Rufinus respondet Paulus in l. 4. qq. ad libertatem proclamare non licet ubi notat Cujac. tit. 12. quaest. Pauli. = Vel
considerem pars, aut nihil interesset) sciendum est ad valorem venditionis hominis liberi de qua ... requiri in homine libero quod sit maior
viginti annis, et quod sciens se liberum simulata conditione se venundari patiatur, et quod de pretio participet §. l. 1. qq. ad libertatem
proclamare non licet, l. ideo 5. C. de liberali causa item in emptore quod ignoret hominem esse liberum, l. qui sciens de liberali causa
l. de ministeriis C. eod., aliquis emptor licet venia, ... iubente ... et adversus ... denegaretur ad libertatem proclamatio
l. liberis 7. § siquis sciens. = Vel ... quod si duo liberum hominem maiorem viginti annis emerint, unus sciens eiusdem
alter vero ignorans, efficiatur servus illius, qui sciens emerat, sed tantum alterius, qui ignoravit, ut docet tex. in l. fin. qq. ad libertatem
Cui decisioni obstat tex. in d. l. liberis 7. §. ... si duo de liberali causa ubi Ulpianus in illa ... respondet liberum hominem venditum
utriusque servum effici, nam qui sciens emit, prodest quod alter ignoravit. Cui difficultati omissis traditis a ... tit. 2.
... ment. cap. 2o n. 6. Ant. Fabro in iurisprud. tit. 3. prin. ... Mat. 3. ... in empt. liberi hominis, qui ad pretium partici-
pandum se venundari patiebatur facta a duobus, quorum alter sciens, alter ignorans erat, multum interesse, an emerint in
solidum, an vero pro ... dominii, nam si in solidum singuli comparaverint, ignorantia unius alteri prodest, nec unius sci-
entia alteri obest, ... ut servus illius qui ignoravit ... sic intelligendus in d. l. fin. qq. ad libertatem proclamare ...
l. in solidum §. 1. de liberali causa, Ceterum si ... fuerit a duobus emptio hominis liberi, manebit utriusque servus, ...
scientia unius alteri nocet, ... ignorantia unius alteri prodest scienti. ... nam cum emptio facta
fuerit pro partibus, ... dividere nequeat, inde merito ... et iustum valeat, et deinceps ... quisquis ... manum
... servo habere debeat, ... ipse emit, cum ... alia pars alteri scienti ... arg. tex. in l. cum heredes ff. de adquirenda
hereditate, atque eadem inter ... in d. l. liberis 7. §. duo. Cujacius in l. in quibusdam §. de iuris et facti ignorantia =

Ad cap. I. de donationib.

Schedas. 38.

[illegible] ... Tiraquellus de nobilit. c. 37. n. 34. ... Mantica ... Mattheus ... [illegible]

... in Collectione Decretalium tit. 3. tit. 20, c. ... [illegible] ... Decretalium habemus ... [illegible]

... de Simoniaca ... [illegible] ... de donat. inter vir. et uxor. ... [illegible] ... C. de Consulibus tit. 12. ... ff. de Donationibus ... [illegible] ... Tiraquellus de nobilit. c. 37. n. 34. Mantica ... [illegible] ... Cassaneus in Catalogo Gloriae mundi ... [illegible]

... Cum ... ex liberalitate ... [illegible] ... Tiraquellus ... Bobadilla ... liberalitas ... [illegible]

... Donationes ... liberalitas ... [illegible] ... Rege ... [illegible] ... Dionysius ... [illegible]

... Regi dignissimum ... liberalitatem ... [illegible] ... Valerius tit. 4. ... [illegible] ... Panormit. ... Host. n. 3. ... Donatio ... [illegible] ... ff. de Donat. ... [illegible] ... Molina ... [illegible]

... Imperator ... [illegible] ... Donationes ... [illegible] ... Imperatricibus ... Donationibus ... [illegible] ... Donatio ... [illegible] ... liberalitate ... [illegible] ... ff. de ... [illegible]

Iult. C. [illegible] doceat [illegible] de natura [illegible] p. moralis [illegible] 5. c. 23. q. 2. Manhea [illegible] n. 14. [illegible] qui mortuo [illegible] habet, [illegible] ab eius successore revocari, c. Abbat. [illegible] 6. 5. [illegible] C. de [illegible] notant Dat. [illegible] Urbem [illegible] Decianus [illegible] 25 [illegible] 6. [illegible] Regni, [illegible] donat. [illegible] alienat. qui magnus [illegible] attingit [illegible] intellecto, ut notat [illegible] regni sui [illegible] honoris, [illegible] 2. [illegible] 2. de [illegible] 9. [illegible] ad Decretal. [illegible] 209 Tiraquellus [illegible] Primog. q. 35. n. 9. [illegible] Gutierres [illegible] donatione facere [illegible] Gabriel [illegible] Molina de [illegible] Barbosa [illegible] Tiraquell. [illegible] dicti cap. [illegible] decisio, quia donatio illa ab Imperatore [illegible] Apostolicae Sedi minime grave [illegible] Donatorum optima mensura et [illegible] quia [illegible] Imperatores Deo, [illegible] multo maiores [illegible] collat. [illegible] donat. Deo reddit, a quo [illegible] bona optima [illegible] Apostolus docet, [illegible] David [illegible] tua sunt omnia Domine, et quae de manu tua accepimus, dedimus tibi [illegible] Deo accepta [illegible] temporalibus bonis munera [illegible] liberales [illegible] Principes [illegible] Bossius de [illegible] 98. [illegible] 29. [illegible] 89. [illegible] 4. De [illegible] Imperatoris donatione facta [illegible] 96 [illegible] Dolet Baldus [illegible] intellectu [illegible] 4. Barbosa [illegible] observat huiusmodi [illegible] facta fuisse [illegible] populo consentiente Imperatore, in quo [illegible] transtulit [illegible] de [illegible] Principum [illegible] Romanis [illegible] transferri potuerat ex regni [illegible]

Ex [illegible] Tradita [illegible] dicti cap. [illegible] intellect. [illegible] exponenda [illegible] in [illegible] Grandi de suspiciendi [illegible] Statutis [illegible] 6. [illegible] Portugalliae [illegible] nobilis viri [illegible] regnum [illegible] reformaret, et [illegible] administrat. [illegible] ac liberos [illegible] Defensores [illegible] donat. [illegible] revocari [illegible] Donata [illegible] de [illegible] Portugalliae factas [illegible] liberam [illegible] revocari [illegible] liberalitatis [illegible] Debitas, [illegible] donat. ab ipso facit [illegible] successoribus revocent [illegible] liberalitatis exercere [illegible] specialis [illegible] donare [illegible] libros [illegible] donat. quas ipse [illegible] Portugalliae Rex fecit [illegible] Regni [illegible] maiestatis [illegible] liberalitatis [illegible] donat. [illegible] intellecto [illegible] 4. [illegible] tradidimus [illegible] donationis [illegible] de [illegible] donat. qui [illegible] et [illegible] liberalis [illegible] de donat. [illegible] de [illegible] revocantur, [illegible] Archidiaconus [illegible] 1. [illegible] Baldus [illegible] Regi Portugalliae [illegible] Barbos. [illegible] ac diversas [illegible] =

[illegible] Decidendi [illegible] 6. [illegible] de donationibus [illegible] quasdam terras pure et simpliciter Monasterio donasse [illegible] terras [illegible] Monasterio [illegible] Monasterio [illegible] patres [illegible] nullo modo [illegible] expressis et [illegible] Iudices [illegible] remissi sunt [illegible] donat. [illegible] et clausula [illegible] clausula [illegible] donat. [illegible] clausula [illegible] pluribus [illegible] Barbosa in tractatu [illegible] clausula [illegible] donat. [illegible] Verosimile [illegible] donat. [illegible] liberalitatis [illegible] quia nobilis donans [illegible] in dubio [illegible] plenissime [illegible] clausula [illegible] Donat [illegible] =

Ex his autem, quae [illegible] explicat [illegible] tradidimus [illegible] quod [illegible] Donatio [illegible] remoredium [illegible] patrimonii [illegible] de dat [illegible] donationis [illegible] Tiraquellus [illegible] Decimo [illegible] Dolet [illegible] Madera de [illegible]

Tiraquellus in tractatu de nobilitate c. 37. n. 47 ex pluribus ab eo relatis, in nobilibus esse magis credendum, illos, quos in dubio donandi animum habere, et liberalitatem exercere consuevisse, de quo probat etiam Scaevola in l. viri 32 § fin. ff. ... Lucius Titius maritus pro uxore centum aureos creditori solvit, cum ea pignori posuisset fundum suum, postea lite facta viro inter eos, de quo agitur, ad hoc obligatus, sive stipulatus sit, sed ... nec amplius vicennies aureos ... quaesitum, si uxore in hac specie an hos centum aureos heredes viri ab uxore vel heredibus eius repetere possint, respondit Scaevola, si donandi animo creditori solvisset, teneri heredes ex causa fideicommissi si repetant, atque exceptionem ... in mobilem, quod praesumptio debet, inquit Scaevola, nisi ... heredibus probetur, cuius probatio ex eo venit, quod virilis, qui creditori uxoris centum quos debebat ipsa solvit, nobilis erat, qui ... nobili ... ipsa liberali, et magnifice ... sit ... donati faciendo se ... obligatum ... et similes, donationem ... debet ... causa, ... obligandi ... solvisse fecisse ... heredes, si centum repetant ex causa fideicommissi ... uxoris heredibus ... repetunt ... exceptione ... Bart. et Tiraquellus d. c. 37. n. 47.

Ex eadem parte illud ... filius familias ... liberam peculii administrationem habeat a patre concessam, donare ... l. filius ... ff. de donat. l. ... 29. § ... filius ff. de ... ad hoc ei concedit liberam peculii administrationem ut ... l. si filius familias ff. ad Macedon. l. qui peculii ff. de ... generaliter ... si filius senator, vel alterius nobilis sit ... donandi habere videtur a patre concessum, qui ei liberam peculii dedit administrationem, nisi illud specialiter ademerit, ut docet Ulpianus in d. l. filius ... ff. de donat. ... peterit ... colligi, ... filius ... senatoris, vel ... alterius dignitatis ... in dicta ... patris, nisi ei specialiter donandi facultatem ademerit, hoc quoque concessisse ... liberam ei dat peculii administrationem, ... quia nobilis ... donationes facere, et liberalitatem exercere, ... nobiliores ipsi, qui ... liberales, et magnificos ... faciat, ... liberalitate donatio ... et ideo merito nobilis pater filio liberam dans peculii administrationem, ... quoque donandi concedere videtur ... et singulari ... in d. l. ... col. 4. ff. ... grandi ... Tiraquellus d. c. 37. n. 41.

Scheda. 39.

Resolutio ad eum in cap. 1.° de titulis recitata
die 22 mensis Martij hora 2.a post meri
diem anno 1645. in gen.li Cathedra
Decretalium minori

lib. 3. tit. 26.

[illegible] 19 – 23. —

[illegible] proponit. [illegible] quidam [illegible] Joannes [illegible] [illegible] [illegible] [illegible] valeret [illegible] [illegible] [illegible] de rebus [illegible] [illegible] disponere [illegible] [illegible] probatur [illegible] [illegible] [illegible] [illegible] Navarrus [illegible] [illegible] D. Thomas [illegible] Abulensis super caput [illegible] Matthaei [illegible] [illegible] Concilium [illegible] [illegible] Bulla [illegible] [illegible] Clericus [illegible] canonicos [illegible] [illegible] [illegible] Dominus [illegible] [illegible]

Quadrientia [illegible] decisio. [illegible] [illegible] [illegible] primis ecclesiae temporibus nec clericos, neque Episcopos, nec fideles aliqua bona in communi aut in particulari [illegible], cum tunc [illegible] receptum fuisset [illegible] qui ad Christi fidem converterentur in communi loco viverent quibus omnibus una domus ecclesia erat communisque mensa [illegible] omnes res ad victum et usum necessariae cap. necessaria 12 q. 1a, qui enim domus aut agros possidebant praeceptionem evangelicam imitantes ad pedes Apostolorum offerebant, ut dividerentur singulis [illegible] necessitatibus succurreret, ut probatur ex actibus Apostolorum cap. 4o et refert Clemens epistola [illegible] quae extat in cap. dilectissimis 12 q. 1a cap. scimus 9o cap. 10 cap. 47 cap. res ecclesiae 26 12 q. 1a ratio est quia cum Christus dominus [illegible] exemplo et verbo paupertatem [illegible] bonorum in particulari et communi aliquando ostendisset, ut constat ex cap. [illegible] [illegible] et ex extravaganti [illegible] nonnullos [illegible] ideirco ex tempore primitivae ecclesiae fuit [illegible] [illegible] clerici neque in particulari neque in communi [illegible] bona possiderent. [illegible] cum [illegible] [illegible] ex ipsorum [illegible] fuit [illegible] agri [illegible] ecclesiis traderent, ut ex eorum [illegible] [illegible] praediorum oblatione quam ex venditione [illegible] [illegible] quae vivendi observatio ex praecepto necessaria non erat [illegible] [illegible] Urbano Pontifice teste in cap. videntes 12 q. 1a. [illegible] verum [illegible] communione [illegible] privatarum dominia [illegible] cuiusque arbitrio et potestati relinquebatur. Verum bonorum communione [illegible] [illegible] Ministerii lib. 2o cap. 1o [illegible] omne [illegible] [illegible] fuit. usque dum [illegible] cap. certe 12 q. 1a. Quarum et sacris ecclesiae Ministeriis [illegible] [illegible] sustentari non possent cumque illa communio magnas discordias [illegible] [illegible] fuit ut si in communi viverent [illegible] illa vivendi in communi norma [illegible] [illegible] ut semper solet [illegible] cum pater 72 [illegible] dulcissimi [illegible] 1o [illegible] aliqua bona propria possiderent ex quibus [illegible] necessaria quererent [illegible] cum [illegible] fuit et [illegible] ut ipsi aliqua bona propria [illegible] [illegible] bona propria non possidere quare illis [illegible] tum modo [illegible] in sacris [illegible] et [illegible] [illegible] bona propria non possidere [illegible] [illegible] concessum ut bona patrimonialia possiderent [illegible] [illegible] de bonis [illegible] ad pauperum [illegible] [illegible] [illegible] [illegible] Bas. in cap. clericos 6. cap. [illegible] 7o [illegible] [illegible] valerent [illegible] tempore intelligendi [illegible] [illegible] 12 q. 1a = Hoc obtinuit usque dum a Sancto Simplicio [illegible] [illegible] 12 q. 2a cap. certe [illegible] cap. illi autem 12 q. 1a [illegible] fuerint quorum prima episcopo, secunda [illegible] 3a fabricae 476. haec bona [illegible] ut constat ex cap. [illegible] 29 cum tribus sequentibus 12 q. 2a [illegible] quarta pauperibus tribuebatur ut constat ex cap. [illegible] 12 q. 3a [illegible] et constitutum fuit ut episcopi [illegible] partem [illegible] ecclesiis obtinerent [illegible] ut ecclesiarum necessitatibus succurrerent [illegible] [illegible] [illegible] ecclesiarum obtinebant ut ecclesiarum [illegible] [illegible] Barbosa loco citato n. 7o.

Denique sciendum est bona [illegible] [illegible] cuiuslibet ecclesiae [illegible] [illegible] [illegible] ecclesiae adquisita [illegible] quae Episcopus contemplatione episcopatus comparavit et quaelibet alia [illegible] episcopatus quaesita [illegible] [illegible] tunc enim ecclesiae intuitu adquisita [illegible] dummodo tempore promotionis constet [illegible] in bonis [illegible] nisi aliud per legitimas probat [illegible] apparet cap. [illegible] [illegible] clericorum cap. de [illegible] 28 [illegible] [illegible] [illegible] [illegible] ad decretales [illegible] 145 n. 20 [illegible] [illegible] [illegible] [illegible] [illegible] constante matrimonio [illegible] [illegible] [illegible] [illegible] [illegible] 51 [illegible] de donationibus inter [illegible] [illegible] [illegible] ad [illegible] bonorum adquisitorum non possint [illegible] [illegible] n. 7o et contrarium [illegible] [illegible] [illegible] praesumptionis [illegible] Episcopus [illegible] [illegible] 19. lib. 5. [illegible] [illegible] sibi obvenerunt [illegible] inventarium conscribere de bonis quae [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] inventarium facere [illegible] [illegible] in praesenti n. 6. [illegible] [illegible] [illegible] [illegible] [illegible] 9. 3o =

— 2 —

Ex quibus iam patet Episcopi proponenda venit ratio qua Abbatem [illegible] assignari [illegible] [illegible] dicunt qualis est Abbas, et Tummularum recenti [illegible] ideo Episcopi de bonis intuitu ecclesiae acquisitis testari non posse quoniam Episcopi praedictis renuntiavit bonis hac ergo ratione defendi non potest cum ex illis [illegible] [illegible] renuntiatio excogitari talis renuntiatio colligi posset plures alias [illegible] resultat. ipse [illegible] et Covarr. in [illegible] omnibus omissis [illegible] praesumptionis vera ratio illa est quae Lege posita [illegible] [illegible] dat ut probant [illegible] cum [illegible] 7° [illegible] antiquis Canonibus [illegible] citatis 12. cap. ad haec cap. [illegible] nos hoc [illegible] ex quibus [illegible] probatur hoc autem [illegible] [illegible] [illegible] ratio [illegible] Pontifices movere potuit ad hanc prohibitionem [illegible] [illegible] [illegible] [illegible] cum [illegible] [illegible] scit quod cum [illegible] Charitatis prima hoc illis teneamur [illegible] a quibus beneficium agnoscimus accepisse et episcopi ac clerici [illegible] ecclesiae [illegible] beneficia [illegible] unde de bonis intuitu ecclesiae adquisitis disponere [illegible] ut [illegible] voluntate [illegible] quam [illegible] ecclesias suas illis prohibetur. — Neque obstat dubitandi ratio scilicet Episcopos dominos esse fructuum ecclesiasticorum et [illegible] de illis libere disponere non posse cum praedictae adsint causae hoc ergo [illegible] nec inconveniens [illegible] cum idem [illegible] in [illegible] aliis dominis qui ob alias rationes [illegible] disponere prohibentur. Ut puta fideicommissarii [illegible] possessores, et ceteri alii qui omnes veri domini sunt [illegible] non ideo 63 ff. de [illegible] [illegible] arboribus 12 [illegible] ff. de [illegible] [illegible] ex [illegible] de bonis maternis et plures alii citati a [illegible] [illegible] [illegible] testari non possunt [illegible] deducta § 8 [illegible] ad [illegible] quod [illegible] [illegible] et ipsi domini rerum suarum sint tamen libere testari prohibentur [illegible] 30 ff. de [illegible] et posthumis [illegible] etiam [illegible] [illegible] providet qui [illegible] bonorum adventitiorum dominus [illegible] cum [illegible] de bonis quae liberis [illegible] [illegible] testari non possunt [illegible] [illegible] facere [illegible] [illegible] quibus non est permissum facere [illegible] adeo ut etsi a Principe [illegible] donatio [illegible] omnium non possit testari ut docet [illegible] [illegible] de bonis maternis [illegible] contrarium dicat [illegible] [illegible] [illegible] verbo [illegible] numero 106. — Unde etsi dicamus Episcopos proventuum ecclesiasticorum dominos esse non recte dicimus [illegible] testari possunt [illegible] [illegible] et [illegible] ff. [illegible] fundo dotali, neque [illegible] [illegible] [illegible] testari non potest ergo [illegible] dominus [illegible] [illegible] omnia [illegible] [illegible] Covarr. et Barbosa locis supra citatis.

Ipsis pro constanti [illegible] iure communi [illegible] Episcopum neque clericos de bonis intuitu ecclesiae adquisitis testari posse etsi controversum esset [illegible] [illegible] locum haberet. Sed hodie diversum [illegible] circa clericos ac Episcopos observatur [illegible] Consuetudine [illegible] clerici de bonis intuitu ecclesiae adquisitis [illegible] [illegible] [illegible] [illegible] quam consuetudinem probatam esse ex [illegible] 13 [illegible] 5 [illegible] [illegible] certum est quam consuetudinem [illegible] [illegible] reprobant eam admittunt Covarr. et Barbosa locis citatis pro qua [illegible] plura [illegible] affert [illegible] Covarr. [illegible] [illegible] hoc [illegible] quod non solum in foro exteriori [illegible] in interiori procedit dummodo praedicta bona superflua ac bene non dispensent tunc enim peccatum committunt [illegible] doctrinam Navarri [illegible] supra quae consuetudo etsi in clericis [illegible] [illegible] tamen [illegible] locum habet. Itaque Episcopi [illegible] de bonis intuitu ecclesiae quaesitis [illegible] [illegible] Pontificis [illegible] indigent quae si simpliciter concedatur quoad [illegible] [illegible] extenditur [illegible] quoad [illegible] [illegible] conceditur in foro exteriori talis [illegible] in foro [illegible] conscientiae si nulla iusta causa adsit securi non remanebunt Episcopi [illegible] Navarri et Covarr. [illegible] — Unde a Paulo 3° Iulio 3° Paulo 4° [illegible] et 5° et Greg.° 13 constitutum fuit ut bona intuitu ecclesiae adquisita [illegible] Episcopi [illegible] Camarae [illegible] [illegible] [illegible] [illegible] docet Navarr. [illegible] peculiaria [illegible] [illegible] [illegible] in universa Italia circa clericorum et Episcoporum bona [illegible] [illegible] in [illegible] circa Episcopos [illegible] observatur [illegible] [illegible] [illegible] [illegible] nec quidem [illegible] [illegible] in Episcopis locum habet immo eorum bona in [illegible] ad ecclesias eorundem spectant sicut iure communi [illegible] ut docet Navarr. [illegible] supra [illegible] [illegible] potuerat considerari ut clerici de bonis intuitu ecclesiae [illegible]

testam. possent Episcopum minime q. procedit q. a Statum orib. circa clericos facit receptu-

Ex quibus infero inprimis interpretat. ad textum in cap. nulli 1°. 12 q. 3a. Ubi proponitur species quidam Episcopus Constantius nomine condidit testam. et Luminoso alijs fratribus seu Legata reliquit ex illis reb. quas post adeptam Episcopatus dignitatem acquisierat Lucidus Episcopus predicti Constantij successor conquestus est. [illegible] asserens talia legata nullatenus Valle-re posse. tanquam de reb. intuitu ecclesiae acquisitis talia. respondit Pontifex nullum intuitum fuisse Luminoso heredi debere. igitur Episcopi [illegible] rebus acquisitis intuitu ecclesiae testam. Condere q. difficilis redditur nam nostri textus auctor fuit Gregorius 1us. et hic ipsemet in presenti contrarium statuit. Cuius difficultatis diluendae causa etsi Varia dixerint interpretes tamen [illegible] ad alia transeamus. Breviter dicimus bona ab Episcopo Legata etc. in presenti relicta ideo penes Legatarios remanere quoniam ipsa possidebat. simulque certum [illegible] talia bona ante episcopatum acquisivisse. Ut aperte colligitur ex [illegible] illius contextura quae habetur apud divum Greg. lib. 10. epist. 41. extat 2° tomo Concil. pagina 229. ita Comm. in presenti n°. 10.

Secundo infero interpretat. ad Concilium Africanum relatum in cap. Si episcopus 3°. de hereticis. Ubi statutum est. episcopum non posse neque extraneos nec consanguineos hereticos heredes instituere si heretici sint adeo. Ut si contra faciat anathematis mucrone feriantur post mortem ipsius Episcopi. si non instituant hereticos consanguineos aut extraneos. Pro immo potius fideles testat. [illegible] cum Concilium nos doceat hoc anti hereticos solum observari. Pro dicendum est. Ut satis faciamus huic [illegible] difficultati in presenti Concilium locutum fuisse de bonis patrimonialibus [illegible] Episcopi in quibus etsi ipsi disponere possent. Ut constat ex [illegible] de similibus adductis in confirmat. tamen cum heretici fuissent heredes instituti q. semper [illegible] vitandi sunt. merito talis institutio non valet. Nec oppugnat hic solutio ex illa vulgari et notissima consideratione. scilicet crimina morte extingui. nec q. post mortem testam. vallere. Ut ponitur ex lege fin. ff. [illegible] delictis cum vulgatis nam sic in crimine heresis speciale est. aliqua sunt in iure crimina quae ob eorum gravitatem morte non extinguuntur Ut constat ex cap. quisquis C. ad legem Juliam maiestatis. mirum videre debet. illud q. in presenti refertur. scilicet excommunicare posse post mortem. Cum in mortuum ecclesia potestatem non habeat. Pro dicendum est. illa verba fulminetis ei anathema dicatur. intelligenda esse ita id est. declaretur. sententiam anathematis in excommunicat. incurrisse ita Azor tomo 2. instit. moralium lib. 3° cap. 27 q. 2a. Comm. in cap. a nobis Mater. [illegible] 11. n° 8 quarto privat. intelligendum est textus in cap. heretici 6°. eodem tit. de hereticis. Pro hec solutio evenire videtur ex cap. episcopus 34 q. 12 q. 2a. Ubi in Concilio Agathensi fuit preceptum. Ut Episcopus qui non habet filios, aut nepotes non posse instituere alium quam ecclesiam [illegible] aliud q. dicimus. scilicet episcopum posse extraneos non hereticos instituere defendi non valet Pro dicendum est. hunc textum non de necessitate sed potius de consilio intelligendum esse cum Episcopus cum bona sunt patrimonialia posset quos Vellet heredes instituere [illegible] ecclesiam nepotibus et filijs et fratribus [illegible] ita Comm. in presenti n°. 8.

[illegible]

Clericus [illegible] bona acquisita, et multo magis poterit episcopus donare [illegible] de quibus [illegible] si ob [illegible] fideiussor [illegible] valde [illegible] [illegible] de [illegible] recte [illegible] [illegible] causa [illegible] [illegible] solutio [illegible] ex [illegible] titulo [illegible] 554. [illegible] haberet [illegible] in quinque [illegible] inter maritum, et [illegible] [illegible] quidditer [illegible] maritus [illegible] pensionem capere ex decimis [illegible] Clericus [illegible] de tali arbitrio [illegible] laicus [illegible] posse acciperet [illegible] quae [illegible] promisso ei fuerit adiudicatum [illegible] ideo quod [illegible] Clericus [illegible] prohiberi pensionem annuatim [illegible] promissam percipere [illegible] Clericus [illegible] [illegible] pensionem [illegible] Clerici posset accidere, et creditor vellet [illegible] pensionem percipere allegando [illegible] ad illam pensionem ex beneficio percipiendam, ideoque [illegible] fuit [illegible] annuatim pensionem ex illo beneficio percipere, [illegible] ~~[illegible]~~ [illegible]

~~[illegible]~~

[illegible] Ex quo infero interpretat. ad text. in cap. cum olim in secundo § praeterea de [illegible] ex quo evidenter apparet donationem inter vivos factam quidam [illegible] non valere [illegible] tio, et ceteris bonis praeter intuitu ecclesiae adquisita illis [illegible] [illegible] illud [illegible] examinabo. Verum donatio ab episcopo facta de bonis intuitu ecclesiae adquisitis valeat et, dicendum est donationem mortis causa ab illis factam nullius esse momenti, ita docet [illegible] potestate Episcop. 3 p. [illegible] 114 n.o 32. quod [illegible] ex generalibus principiis [illegible] patet ex quibus constat donationem causa mortis legatis adsimilari et appellatione legati contineri [illegible] fidei commissi ff. de leg. 3.o [illegible] esse. Nam si episcopis et clericis donatio causa mortis libere [illegible] teretur, manifesta fraus fieret constitutionibus canonicis, episcopis testari prohibentibus, ita docet [illegible] lib. 5 [illegible] cap. 62. [illegible] nec obstat quod donatio attento [illegible] contractus [illegible] vendicavit [illegible] in l. 2.a ff. de leg. 1.o [illegible] in praesenti, nam in donationibus [illegible] finis et effectum attendendum esse cum sit ultimae voluntatis specimen [illegible] testari etiam volente patre non possit [illegible] l. [illegible] [illegible] in l. [illegible] de [illegible] donare [illegible] causa mortis poterat, quia cum alias [illegible] donatio non sit [illegible] donare l. in [illegible] § [illegible] filius fam. ff. de donationibus, [illegible] in episcopis non [illegible] cum idem effectus resultet ex [illegible] ac ex donatione causa mortis [illegible] in donationibus [illegible] sunt cum dispositionibus [illegible] in ultimis voluntatibus illis sit prohibita. Unde [illegible] doctrina [illegible] varia communiter [illegible] ut [illegible] text. in d. cap. cum olim § praeterea [illegible] in d. cap. cum olim n.o 8.o et ibidem Butr. n.o 25 dicentes [illegible] donationem non valere quoniam [illegible] in [illegible] quae interpretatio [illegible] quod [illegible] de [illegible] in d. cap. [illegible] non [illegible] erant, [illegible] valorem habebant quem hodie habent [illegible] [illegible] interpretat. [illegible] dicendum est [illegible] episcopi non possint [illegible] non valere ita Solorzano de Iure Indiarum 2.o tomo lib. 3 cap. 16 n.o 5 [illegible] adeo nullam fuisse donationem quae fuit facta ab episcopo [illegible] quasi discrimen [illegible] inter episcopos saeculares et regulares cui solutioni adheretur [illegible] in cap. ceterum de donationibus ubi [illegible] donationem ab abbate factam [illegible] cum [illegible] agitur de iure constitutum est donationem factam inter vivos ab episcopo validam esse [illegible] certum [illegible] est legem consuetudini adsimilari ut ex l. [illegible] ff. de legibus et [illegible] 2.a [illegible] longa consuetudo colligitur. Unde etsi in d. cap. ceterum asseratur consuetudinem [illegible] attendendam [illegible] negat [illegible] l. [illegible] non esse [illegible] in populo [illegible] l. [illegible] consuetudine custoditur, ita interpretatur doctissimus Solorzano ubi supra.

Inter praeterea [illegible] text. [illegible] heredem institutum [illegible] [illegible] non [illegible] episcopi heredem instituendum esse quod [illegible] iure civili necessitate parentibus imposita circa liberos [illegible] in l. inter [illegible] 3 de [illegible] [illegible] vulgatus [illegible] ex iure pontificio in cap. [illegible] Vult. 17.9.q.1. [illegible] Augustinus [illegible] clerici bona ecclesiae [illegible] qui filios ex [illegible] [illegible] esse [illegible] exemplo [illegible] episcopi [illegible]

qui [illegible] iure Dominij filios non habere esperans res suas sibi reservato usufructu [illegible] donavit [illegible] [illegible] filij qui [illegible] cad. [illegible] et omnia predicta que do [illegible] restituere [illegible] et [illegible] et [illegible] testante. [illegible] heres instituendi quomo [illegible] nunc instituta fuit = [illegible] ad [illegible] [illegible] [illegible] sic quem [illegible] Andreas asserit ideo ingressum nunc non filium institutum esse quoniam cum [illegible] condidit iam decesserat [illegible] filij. [illegible] admitti nonpotest cum nullum verbum in integro illo [illegible] enumerat. ex quo colligi possit [illegible] filium decessisse. [illegible] dicendum est ideo nunc heredem institutum esse quia filius [illegible] erat. [illegible] qui [illegible] [illegible] adhuc patris admitteretur [illegible] nec [illegible]. cumque inveniret affectu examinare recte potuit eam heredem instituere nam etsi maritus fructus [illegible] [illegible] uxori [illegible] si [illegible] possit ad alendam familiam [illegible] dominium nullus non habet. Unde constat recte uxorem [illegible] filij [illegible] maritus [illegible] filius heredes institui posse ita docet Ant. Gomez in l. 9 tauri nº. 17.

Ad cap. Tua nobis. 17. de testamentis.

Schedas 40.

Gregorius 9. in cap. tua nos 17. de testamentis Nemosiensi Episcopo rescribens explicatur. In eo sequens proponitur species, quidam cum in ultimis essent constituti testamento relicere ut bona sua quaecunque alia quae relinquere, ut in piis causis expenderentur, ad quod adimplendum deputarunt non nullos religiosos, clericos seculares, nec non etiam laicos, praedicti isti executores cum deberent secundum testantium voluntatem in piis causis praedicta bona erogare aliaque similia facere, secundum voluntatem eorundem, curarent. De hoc facto cultus Pontifex Greg. respondit praecipiens praedicto episcopo ut praedictos executores compellat ad exequendas iam voluntates eo modo quo testatores praeceperant, virtute cuius praecepti praedictus episcopus id fecit prius monitione interveniente.

Ex qua facti specie doctrina quae communiter ex nostro textu deduci solet, sic se habet. Episcopus potest compellere executores testamentarios ad hoc ut bona fideliter et plenarie expendant in usus pios, secundum voluntatem testatoris, quamvis hoc episcopo testator prohibuerit. Probatur haec doctrina ex textu in cap. nos quidem 3. cap. si haeredes 6. cap. Joannes 17 hoc nostro titulo de testamentis cap. licet: infine de sepulturis, cap. in litteris 5. de raptoribus, cap. 2. de testamentis libro 6. Clementina exivit § item de [illegible] Tridentino sessione 22 cap. 8. et 9. de reformatione cap. Silvester 13 11 q. 1. de [illegible] fl[illegible] in L. nulli 28 C. in l. si quis ad declaranda 49 § 1. C. de episcopis et clericis auth. hoc amplius C. de episcopis et clericis fideicommissis L. 7 tit. 10 Part. 6. Exornant [illegible] illustrant ad nostrum textum praeter antiquiores Panorm. Felinus et alii indicati Juris Coll. in repetitione ad nostrum textum et ad praedicta Thomas Sanchez libro 4 Moralium decisionum cap. 1. dubio 55 per totum, Gutierrez libro 1. Practicarum quaest. 95. n. 1. Sarmiento libro 4. selectarum cap. 11 n. 13. Spino in speculo testamentorum libro de executoribus glosa 28. in principio n. 20. Barbosa de potestate episcopi allegatione 82 et 83 Cenedo in collectaneis ad Decretales collectanea 117 ad textum in cap. nos quidem hoc nostro titulo et plures quos ipse refert et etiam Barbosa in collectaneis ad nostrum textum.

Verum licet haec doctrina his auctoritatibus confirmata, sit verissima tamen difficilis redditur ex sequentibus. 1. quidem [illegible] (~~statuit episcopus [illegible]~~) nam videtur episcopus numquam posse compellere executores testamentarios ad hoc ut adimpleant testantium voluntates hoc ita probo quia aut testamentarii sunt laici, aut sunt ~~[illegible]~~ religiosi, vel clerici seculares in quibus omnibus sequitur impedimentum. Adest namque quia laicos non habet potestatem episcopus cum christiana respublica, maxime [illegible] nostramus, ut [illegible] sit christianorum generis ita ut spiritualis potestas penes ecclesiasticos, temporalis vero penes seculares remaneat cap. duo sunt 96 distinctione cap. solite de maioritate et obedientia junctis quae tradunt Petrus Gregorius libro 45 Syntagmatis cap. 4 per totum Barbosa de potestate episcopi allegatione 1. n. 1. cum pluribus sequentibus. Igitur cum nullam habeant potestatem in laicos non recte in nostro textu statuitur id episcopo concedi. Quod autem religiosi et clerici seculares ad id non compellantur patet ex textu in cap. 1. ne clerici vel monachi et ex cap. 2. de testamentis hoc nostro libro 6. ubi proponitur religiosos clericosque seculares incapaces omnino esse ad exercendum executoris testamentarii munus quod non recte illis hoc in nostro textu conceditur et ad illud adimplendum cogi debere statuitur. Denique quatenus potestas praedicta episcopo conceditur etiam eo casu quo testatores prohibuerint ne quid tale faciant urget et contrarium persuadere videtur testantium voluntas quae omnino est adimplenda L. 4. C. de [illegible] mandantis cum cap. cum Marthae [illegible] de celebratione missarum cap. ultima voluntas 13 q. 2 cum vulgatis igitur cum [illegible] ponat ac suis rebus potuerit praecipere ne episcopus compellat testamentarios eo casu quo voluntatem suam non adimpleverint, videtur namque [illegible] renunciare.

His difficultatibus non obstantibus. Assumpta est nostri textus decisio verissima [illegible] cuius [illegible] decisionis ut [illegible] nonnulla animadvertenda veniunt, et in primis secundum est potestatem et jurisdictionem compellendi testamentarios ad hoc ut adimpleant testantium voluntates non tantum competere episcopo in ecclesia capitulo sede vacante [illegible] quia cum executio testamentorum actus sit jurisdictionis [illegible] in [illegible] [illegible] L. 4. ff. de [illegible] et [illegible] capitulum ecclesiae sede vacante succedat episcopo in illis quae sunt jurisdictionis cap. cum olim 14 de maioritate et obedientia cap. 1. ne sede vacante aliquid innovetur junctis quae tradunt Petrus Gregorius libro 17 Syntagmatis cap. 13. Azor 2. p. Institutionum Moralium libro 3. cap. 3. inde evenit ut ipsi cum illo possit cogere. [illegible] ea quae tradunt Coll. in d. cap. Joannes n. 2. Thomas Sanchez libro 8. de Matrimonio disput. 2. n. 10. qui adsentiunt hoc idem concedi et permitti abbatibus qui habent quasi episcopalem jurisdictionem. Hoc namque in favorem ipsorum testantium introductum est, alias namque si vacaret ecclesia iniquum esset, ut pro tunc adimplementum voluntatis testantium non [illegible] [illegible] esset ut animadvertit Barb. allegatione 82. n. 30 cum sequentibus.

Rursus secundum est eum qui testatoris voluntatem non adimpleverit puniri per episcopum sic [illegible] in eo quod amittat fructus [illegible] omnia emolumenta quae alias sibi obvenire debebant ex praedicta haereditate aequum namque est ut ille qui recusat [illegible] aliquid [illegible] quod poena licet inspecto antiquo obviatur procedat tamen in extraneis quae in suis haeredibus ex [illegible] in l. ultimis C. de fideicommissis et ibi. Cap. Silvester 11 q. 1. tamen hodie cessat in filiis qui quam [illegible]

Auth. hoc amplius C. de fideicommissis

Parentes non adimpleant, Priuari non Deuint legitima sua quae illis ... Vt Diuiditur illis tamen Minoribus ...
Cogendus testatoris Voluntatem adimplere quem Prosequitur Abb. ibid. cap. si haeredes 6. hoc nostro tit. ... Ioanes Dicit ...
Videtur textus in cap. licet Vniuersi 6. de Voto et Voti Redempt. ex cuius specie colligitur filium non adimplentem Voluntatem
Patris Priuandum esse suo Regno quae distinctio Predicta defendi non Potest. Vnde difficultatem Panormit. in presenti

Verba Speciei

Vt quam dissoluat aduertit ideo in d. cap. licet filium Priuatum fuisse suo Regno quia Votum quod non adimpleuit factum erat
in fauorem Terrae Sanctae Vera quantumuis hoc aliquid curare non negemus tamen illud insufficiens Regamus ...
tam paena infligenda quae propterea Dicendum est ideo in d. cap. licet filium Priuandum regno quia illud non potest ...

ideo filius priuatur Regno quia non adimplebat voluntatem Paternam ad ... tradit Thomas Sanchez Vbi Supra libro 5 numero 5

illius facile diminueretur quemadmodum quae Prouenit Dignitatem nec non Beneficia ... non ... Patiunt ...
Circa hoc Prohibit. Turonensis ... de quo in cap. Maioribus 8. et in cap. tuae Fraternitatis 20 de Praebendis et Dignitatibus ... Sanctis quae tradunt Lambert. de Iure Patronat. lib. 2 Parte ... Artic. ... Nicolas Garcia de Beneficiis
12 Parte cap. ... Regnum non debet Diuidi et hac est Vera causa filius in obediens Priuetur Regno Vt Elegans
Animaduertit Abb. in d. cap. si haeredes numero 23 cum quatuor sequentibus qui ... dicat. Cur huic filio adimi ...
Regnum non nulla alia quae in eo textu difficillima extant ea libenter omitto, Vt ad alia Deueniam, illud tamen
non omittam Videlicet quomodo in specie d. cap. licet Dux Andreas fuit Executor Predictae Penae. hoc Procedit ...
Mandato Pontificis qui Recte potest facere, et ea quae tradit Preceptor Ioannes de Baloa in cap. 2 de ...

... 8 ... 17 ...

numero 30 cum sequentibus

Denique Vltimo loco quibus incumbit ex Nostro textu dispositio Punire testamentarios executores
quando Voluntatem Defunctorum adimplere omiserint, non statim eos posse punire, imo Necessarium est Vt illis ... concedatur
Vnius Anni Spatium intra quem illud adimpleat et quod sint Moniti Vt Eleganter Proponitur in cap. nos quidem
quod hoc nostro tit. ... ex posteriori ... nostri textus Verbis Colligitur et quamuis quandoque diuersum tempus illis soleat Concedi
tamen Plerumque Annus dari solet qui debet Computari a die Mortis testatoris et Vt executioni Mandetur Pena Predicta
cum erit necessaria admonitoria ... Vt post alios docet Thomas Sanchez Vbi S. numero 9. ...
[illegible]

et quando ... tertio ... ut ... [illegible]

Constitutus Apparet tam ideo in nostro textu Statuitur Episcopus Punire executores Vt adimpleant Voluntatem
testantium quia cum proprium Munus Episcoporum sit Vt in sua Dioecesi Peccata Vitentur et Pia adimpleantur ...
... in cap. ... de officio ordinarii et in Clement. 1. eod. tit. ex eo quod Voluntates Testantium non ...
et Magna Damna in ... Vnde ... Vt Episcopus hoc munus ... sit ... qui non ...
... executores Voluntatis Morientium imo et Viuentium ... in Clem. ... hoc nostro tit. tradit Barbosa ...
Supra ... Nec tenet ... dubitandi ... non ... quia ... Episcopos non posse Compellere ...
Et Clericos Propterea quod non debent secularibus negotiis se intromittere et Respondendum est dicendo quod ...
Monachi Clerici aliique Religiosi ... Vide el Papel numero 9. ... Minus obstat secunda ...
Prouatur ... y depues de auer Propuesto que ... Magestad ... Pontifice Primaria ...
... mente dicen que ... el ... se hace de la Jurisdiccion del obispo ... Docet Estephanus ...
... Dispositione ... cap. 257 numero 25 ... Vide el Papel numero 20. ... Minus ... qui ... Testamentarios
... personas et hoc ideo Verum est Vt id Munus debent obtinere quamtumuis Minores Viginti quinque
Anni sint et ... Vide el ... de Prouarat. lib. 6 ... el Papel del Cap. ... de Studiis ...
... Denique non obstat Vltima difficultas quoniam tunc debet obseruari testantium Voluntas
quando ... dispositio non aduersatur ... Nostri textus.

[illegible] Concilij Carthaginensis 4.º can. 58 [illegible] 5. [illegible] testamenti [illegible] [illegible] por que l'alli [illegible] magistrat [illegible] verdadera [illegible] aplicar y anssi [illegible] que la palabra [illegible] [illegible] [illegible] 4 [illegible] [illegible] Curreceranto =

2.º [illegible] litteris [illegible] = [illegible] =

3.º [illegible] =

4. [illegible] 9. [illegible], y algunas [illegible] del [illegible], y de [illegible] herederos [illegible] [illegible] =

Sellos [illegible] 1192.

el [illegible] 2.º [illegible] =

+

Relectio ad tres causas nullitatis Rdi Caparrolius, [illegible] Parrochianus [illegible]
horas post meridiem anno Dni 1651. quas [illegible] fuit & data [illegible]
[illegible] die 19. Mensis Decembris, [illegible]
presente. = = = =

Lib. 3 tit. 29.

Scheda 41.

[illegible]
[illegible]
[illegible]
[illegible]

Verba nostri textus hæc sunt: nullus Episcopus alterius Parochianum Iudicare præsumat et infra, nam qui eum ordinare non potuit nec Iudicare potest. Ex quibus Verbis aperte colligitur Episcopo ad quos spectat suorum Subditorum causarum cognitio. Cap. 1. cum Vulgatis de officio ordinarii non posse eos qui Iurisdictioni suæ non sunt ordinare, nec quolibet alio modo Iudicare, quia vero ut perfecte explicatur sequens Generalis constituenda est assertio, Episcopi Parochianum alterius sine ipsius licentia ordinare non possunt nec quo libet alio modo aliter Iudicare, probatur hæc assertio textu in cap. fin. hoc nostro titulo cap. quod translatis 11 de temporibus ordinationum cap. eos qui 2, 3, et 4 eodem titulo libro 6. Cap. 1. cap. 2. cap. nullus primas 9 q. 2 cap. si quis autem 71 Dist. cap. fin. de Clericis peregrinis cap. 1. cap. fin. de foro competenti exornant et illustrant antiquiores ad nostrum textum et præter eos Thomas Sanchez libro 7 Moralium cap. 1. Dubio 20 per totum. Sotus de Iustitia et iure libro 5. quæst. 4 Art. 1. Suarez de censuris Disp. 31 sect. 4 n. 13 cum sequentibus. Salcedo in praxi Canonica cap. 26. aliique plures quos refert et sequitur Barbosa in Collect. ad nostrum textum.

Verum nostra Conclusio sequentem patitur dubitandi rationem, nam Episcopi recte possunt cognoscere de causis illorum qui subditi sui non sunt, dummodo aut delictum committant aut contractum celebrent in loco iurisdictionis suæ subiecto, ut probatur ex cap. fin. de foro competenti ubi proponitur quod Episcopi subditum alterius ratione delicti vel ratione contractus [illegible] recte possunt et absolute in nostro textu episcopum tantum posse suorum Subditorum causas Iudicare. — Rursus quatenus dicitur non posse Episcopum ordinare eum qui subditus proprius non est, urget sequens consideratio, nam quando Episcopus qui vere minister sacramenti ordinis est aliquem ordinat, [illegible] sit capax ordinatus remanet propterea quod in tali ordinatione imprimitur character et adest verum et perfectum sacramentum. Cap. 1. de ordinatis ab eo qui renunciavit episcopatui igitur cum recte ordinatus maneat non est ratio cur denegetur Episcopo tale exercitium præsertim cum ex iure Divino et ex dispositione Evangelica proprius minister episcopus sit ex Concilio Trid. sess. 23 can. 4 et 7.

Adeo verum est Episcopum non posse ordinare eos qui sui subditi non sunt ut si de facto eos ordinaverint suspensi ita ut conferens et recipiens suspensi manebunt, alter a collatione eorundem ordinum, alter vero ab executione, donec proprio episcopo visum fuerit ut statuitur in cap. eos qui de temporibus ordinatis libro 6. et in Concilio Trid. sess. 6 cap. 5 quæ authoritas non generaliter sed tantum in ordinibus collatis intelligi debet. Cessavit prædicta pœna casu quo episcopi adfuerit ignorantia invincibilis et etiam quando proprius episcopus licentiam præstiterit quæ constare debebit per instrumentum publicum aut per literas dimissorias quas Episcopi ad id dedere solent in quibus causam ob quam ordines conferre non potest suo subdito proponere debet, veluti quod infirmus est aut alia legitima causa impeditus. Alias autem eadem licentia deficiente suspensus remanebit, adeo ut si quis ita primam tonsuram acceperit et virtute talis ordinationis obtinere velit beneficium non poterit, parva enim sunt non habere tonsuram et habere inutilem quapropter, si beneficium impetret a Romano Pontifice non exprimendo se promotum esse ab alieno Episcopo, erit subreptitia impetratio ex eaque tradit Thomas Sanchez ubi supra.

Descendit hinc ratio cur in nostro textu statuatur Episcopum non posse ordinare non subditos quod ideo provenire certum est quoniam ex quo fuerunt instituti Episcopi singulis prælatis terminus fuit præscriptus ad hoc ut melius oves suas custodiant earumque rationem Domino reddant cap. 1. 13. q. 1. aliasque nasceretur magna animarum controversia si Iudex unius Iurisdictionis alterius usurparet eos qui non sunt subditi ordinarent ex textu irrefragabili in cap. de officio Iudicis ordinarii et hæc est ratio cur unicuique civitati designatus est episcopus hic enim proprius Iudicaturus [illegible] obtinent sedem Episcopalem in Diœcesi de qua promovendus est, oriundus seu in qua beneficium ecclesiasticum habet seu ubi domicilium obtinet, licet alibi fuerit natus, ut tradit Barbosa de potestate episcopi, allegatione [illegible] per totam. Et si quis in una Diœcesi esset natus, ubi alia habitaret, et in alia haberet beneficium poterit a quolibet ex tribus his episcopis ordines petere aut dimissorias petere si tamen elegisset unum et ab eo aliquem ordinem suscepisset non poterit variare et assumere ordines ab alio nisi episcopus qui primus illum ordinavit Iudicasset certam causam ordinatis et remitteret ordinandum ad alium ex dictis Episcopis ut tradit Barbosa ubi supra.

Ex his omnibus in primis interpretandus venit authoritas Urbani 2. relata in cap. Lugdunensis fin. q. 1. ubi proponitur archiepiscopum Lugdunensem quærere ab Urbano utrum posset in suis ordinibus tolerare

Marginal notes (left margin): Dudase si a la [illegible] de [illegible] que [illegible] por el exercicio [illegible] suspendas [illegible] contra el cap. nullus [illegible] ordinationes [illegible] se [illegible] porque se [illegible] ad exercitium

Quando Clericus suus ab alijs Episcopis ordinatus et Respondit recte posse Penitentia imposita si sunt
Vitae et Famae, ad quod adduxit exemplum Sancti Joannis Chrysostomi Tolerare quosdam Clericos ordinatos ab
Epiphanio quod Sanctus Vir omnino non fecisset si in detrimentum fore respondent quod cum hoc fecisset Chrysostomus, [illegible]
non recte in Nostro Iure Statutum non posse Episcopum ordinare eos qui sui subditi non sunt. Huius Iuris difficultas
Gravis est. Ut DD. Varij adducunt Solutiones. Salcedo in Praxi Canonica Cap. 26. et Maidus [illegible] de [illegible] Cap. [illegible]
[illegible] quod alij quos ipse Salcedo refert existimarunt ideo potuisse non subdito ordines conferri quia erat [illegible]
[illegible] proprij Episcopi perinde ac si ab ipso fuerint collati. Sed haec Solutio non potest sustineri quia ratus quis haberi
potest etc. Cap. Ratus de regulis Iuris [illegible] 2. quia quod ab initio est Vitiosum etc. L. quod ab initio ff de Reg. Iuris
Neque ordinatio irrita est quoad executionem, alias neque quasi [illegible] Ut hoc quaesito colore alienos ad
[illegible] promouerent sequerentur plurima Damna [illegible]. Archidiaconus dicit [illegible] ad quod adducit
Iura post praedictum [illegible] Solutio haec respicienda est [illegible] vitanda. Mandosius in Regula Cancellariae
[illegible] existimat ideo Clericos in dicto Cap. fuisse ordinatos ab alieno Episcopo admittendos quia illi erant [illegible]
[illegible] idonei. quod licet [illegible] verius sit non sufficit ad dissoluendam praedictam difficultatem, quapropter [illegible] alijs Solutionibus
Dicendum est in dicto Cap. sive tantum alieni Episcopi relaxare et remittere iniurias sive [illegible] hoc enim recte potest facere [illegible]
[illegible] adsunt Urbani Pontificis Maximi authoritas quae si acciderit aliquem ordinari ab alieno suo episcopo ut [illegible]
in ordinibus susceptis recurrere [illegible] ad Romanum Pontificem absque [illegible] dispensatione seu Gratia [illegible]
[illegible] et hoc debet facere antequam alios ordines [illegible] Beneficium [illegible]
in Italia [illegible] quia ubi fundamentum non est nequit superaedificari Cap. [illegible] haec eadem Solutio intelligendum
[illegible] Sardinie [illegible] dist. [illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible] tradit ita D. [illegible] in tractatu de Sacro ordine [illegible] de ministro.

Clarius infertur interpretatio [illegible] Venimus [illegible] de praescript. [illegible] Innocentius 3. Ubi proponitur Quaestio [illegible]
[illegible] Abbatem Sancti Martini et Episcopum. [illegible] super quibusdam Decimis et super alijs [illegible]
Clericorum [illegible] Monasterij petebat Abbas ut omnes [illegible] Parrochia Soluerent illi [illegible]
[illegible] Decimas de omnibus quae habent. Petijt insuper ut Clerici [illegible] Monasterij possint recipere [illegible]
Consecrationes Altarium et quod [illegible] ordinationes a quo maluerint [illegible] Indulsit [illegible]
Alexandri et Clementis, insuper praescriptionem allegabat ad praedicta. [illegible] Episcopus petijt
[illegible] praedictus [illegible] et quod Clerici Cappellani praedicti Monasterij omnia Sacramenta [illegible]
[illegible] Recipere, [illegible] auditis et intellectis meritis Causae Decreuit Innocentius 3. [illegible]
Clerici [illegible] Monasterij illius quod erat in praedicta Ciuitate recipiant Sacramenta et ordines [illegible]
episcopo si fuerit Catholicus [illegible] Gratis ea voluerit [illegible] a quo Maluerint episcopo recipiendi praedicta [illegible]
[illegible] facultatem non obstante Priuilegio Clementis [illegible] Romanus [illegible]
nec obstante praescriptione quoniam mala fides [illegible] ubi Pontifex tantum [illegible] praedictus [illegible]
Accedere [illegible] Sacros ordines, [illegible] quia accipere minores ordines [illegible] ab suo [illegible]
recte potest [illegible] non [illegible] Pontifex ad Sacros ordines [illegible] non recte [illegible] episcopus non posse [illegible]
nec Maiores nec minores non subditis [illegible] Sed haec difficultas Varias adducunt Solutiones Antiquiores Hostiensis
in d. Cap. Venimus existimat addendum esse illud [illegible] maxime quasi [illegible] ordines prohibitus esse conferre [illegible]
[illegible] Sacros, haec Solutio respicienda est quia est Correctoria. Joannes Andreas et Panormitanus
in d. Cap. Venimus [illegible] et existimarunt [illegible] Verba ad Sacros ordines Apposita esse ad [illegible] ordinum
[illegible] quasi [illegible] sit Episcopus posse conferre minores ordines [illegible] non subditis hoc [illegible]

q[uod] ipse certum est nec Maiores nec Minores offerre posse ut constat ex Cap. [illegible] de temporibus ordinationum
lib. 6. quapropter his Doctoris solutio omnis Principalis supra praedicta vel ad sacros ordines apposita fuisse non
ad excludendos Minores sed ut Primos traret potestatem quam Abbates habent ut Presbiteri sicut et
Benedicti habent cum certum sit eos primam tonsuram posse conferre Cap. cum contingat 11 de aetate et qualitate
Cap. Abbates de Privilegiis lib. 6. tradit Tamburinus de iure Abbatum tom. 2. Disput. 2. quaestio 1.
Cum hic cap. Verum quaestio controversia inter Episcopos et Abbates [illegible] receptionis ordinum, propositae de sacris dumtaxat
intelligi de Minoribus non poterat controverti cum dicti Abbates potestatem habeant conferendi Minores
ut praediximus. Adhuc tamen in eodem textu remanet difficultas cum in eo dicatur esse in arbitrio et
potestate subditorum quando Episcopus non est catholicus vel non vult libere ordines offerre. Respondendum est hoc
ad [illegible] providere cautum esse in personis Episcopi aliasque qui catholicus non est aut ut debet non offert ordines cum
certum sit pro celebratione ordinum sicut pro caeteris Sacramentis nihil exigi posse Cap. 1. cap. ad Apostolicam et
de Simonia iuncta quam tradunt Suarez tom. de Relig. lib. 4. cap. 5. n. 22 cum sequentibus Doct. praedictos
solutus Panormitanus in d. Cap. Verum n. 5. — Spectat huc et adducit text. in cap. eos qui 2. de

n. 26.

3.a Temporibus ordinationum, ubi postquam Pontifex Gregorius decimus statuerit episcopos, qui ordinaverint clericos
alterius parochiae scienter vel ignorantia affectata suspensos esse ab collatione ordinum, clericosque subditos
ipsius suspensos propterea quod alios ordinaverant, posse absque ipsorum licentia ordines recipere ab aliis vicinis
episcopis dum tamen per Metropolitanum declaratum praedicta suspensio proveniat. quod dicitur ea limitatione
[illegible] quia id fieri expedit in punitionem praedicti episcopi ut forsan ille se intendat et alii tali [illegible] poena
perterriti tale quid non imitant. Doct. Salado d. Cap. 26 circa finem.

n. 27. Rursus infert Interpres ad hos in Cap. fin. de temporibus ordinationum lib. 6. ubi statuitur Episcopum non posse
primam tonsuram conferre nec infanti nec illiterato nec coniugato deficiente proprii episcopi licentia et
auctoritate nisi infans aut coniugatus religionem ingrediantur. igitur casu quo ingredi voluerint recipere poterunt
episcopus et si alienus sit primam tonsuram offerre, advenus [illegible] dicta. Haec difficultas facile
dissolvitur si dicamus mentem Pontificis eo esse ut quemadmodum Episcopus infanti nec coniugato [illegible]
primam tonsuram dedere nisi religionem ingrediantur, ita similiter non offerat eam ei qui non est proprius subditus
deficiente sui superioris licentia quasi sensus sit eandem prohibitionem quae extat ad hoc ut non conferantur maiores
ordines non subditis extendi ad Minores quod certum est et [illegible] de causa statuitur cum certum sit prima
tonsura initiatus privilegiis clericalibus gaudere. — quod autem in d. Cap. fin. infans ingredi possit
religionem ne videatur difficile cum in ea aetate destitutus intelligatur in qua non potest intelligere quod agit sed
facile dissolvitur si animadvertamus praedictum ingressum fieri non ab ipso sed potius a patre nomine ipsius
ad cuius observantiam non tenebitur nisi adveniente legitima aetate tacuerit et non reclamaverit
quo casu potius virtute taciturnitatis quam praedicta oblationis profiteri intelligitur quo modo
intelligantur. text. in cap. Monachum 20 quaest. 1. text. in cap. addidistis eadem causa et quaest. cap. 1. et
exprimat[ur] [illegible] Inyoubenez cap. 2. de Seditionibus apponit plura quam alia quae adducit hanc [illegible] definitio
denique Thomas Sanchez lib. 4 ad praecepta Decalogi cap. 18. n. 8. licet quidam vir doctissimus a[liquis]
contrarie sententiae fuerit acerrimus defensor pluraque alia huiusce generis difficilia sane extant in
lib. de temp. ord. ea libenter omitto ne videar aliquid alienum a nostro instituto pertractare itemque
adnotasse nostri textus prohibitionem non tantum locum habere in Maioribus imo et in minoribus ordinibus —

De integrè solvendis decimis absque impensarum deductione

Scheda. 42

[illegible] ad illa [illegible] exaggerantur

Decimas integre solvendas absque expensarum

[illegible] Deductione

Generaliter [illegible] Decimas solvendas esse integre sine expensarum deductione [illegible] ministris [illegible] c. parochianos [illegible] de decimis [illegible] c. Significavit [illegible] de decimis [illegible] Concilii Tridentini sess. 25 de reformatione cap. [illegible] Bellarminus [illegible] de Clericis [illegible] Collectio [illegible] Navarrus in manuali cap. 21. n. 32. [illegible] de decimis [illegible] Silvester in summa verbo decima n. 18. § 7. [illegible] Decimarum et Primitiarum [illegible] ad Decretum [illegible] coll. 66 [illegible]

Hanc veritatem [illegible]

[illegible] decimas [illegible] à Deo [illegible] Moyse [illegible] c. parochianos [illegible] de decimis, c. revertimini, c. decimas 16. q. 1. [illegible] de decimis [illegible] decimas [illegible]

[illegible]

Quae dubitatio [illegible] Responsio 1. Decimas integre [illegible] ministris solvendas [illegible]

[illegible]

Solemnes tum forte dapes, et tristia dona

Libabat cineri Andromache, manesque vocabat.

[illegible] Decimas [illegible]

[illegible] decimarum [illegible] ... Varie divid[illegible] ... in [illegible] decimas [illegible], ut dicuntur [illegible], qui solvuntur [illegible] fructibus, velut [illegible] fructus ... molendinorum, et [illegible] ... persolvuntur, veluti ex negotiatione, ex [illegible] militiis, aut ex venat[ione], aut ex alliis [illegible] ...

[illegible] ordine illius [illegible] ut primus Clericis, deinde advenis, et postmodum Viduis, et pupillis decima daretur. Allia etiam Decima episcopalis, quam olim [illegible] parrochianis recipiebat, [illegible] fructus tenues erant, c. quoniam c. dudum de decimis, [illegible] c. de privilegiis, [illegible] c. cum [illegible] 12. q. 2. [illegible] hodie de consuetudine [illegible] debetur, c. pr[illegible], et sequentibus 109. d. Allia erat Decima [illegible] ex [illegible] debebatur ex decreto [illegible] l. 2. §. [illegible] ff. de pollicitat[ionibus]. Cuius tum decisio, atque explanatio [illegible] ... [illegible] immittere et indicarem. Videat qui voluerit Cuiacium lib. [illegible] observat. c. 36. Alciatum lib. 4. paradoxorum c. 2. Cuiacium lib. [illegible] c. [illegible], et melius [illegible] Petrum Rebuffum in tractatu de decimis q. 4. n. 5. Allia decima erat, quae olim dabatur fisco debita [illegible], quae mariti sine liberis decedentes coniugibus suis relinquebant, quippe Lege Papia Poppea, quae [illegible] Alciatus [illegible] lata fuit, cautum erat, ut si vir, et uxor filios non haberent, tunc decima pars illorum, quae alter alteri reliquisset fisco [illegible] ad quod respexit illud [illegible] jura parentum habes, [illegible] scribere [illegible], legatum [illegible] Capys, quae poena [illegible] fuit Imperatoris Arcadij, et Honorij [illegible] relata in l. [illegible] C. de infirmandis poenis celibatus, et habes eleganter Alciat[um] [illegible] c. 3. Marcum Vertranium de [illegible] Liberorum c. 4. Allia etiam fuit decima metallorum, quando [illegible] Laborum [illegible] argenti [illegible] tunc fisco decima pars debetur, [illegible] allia Decima [illegible] ex decisione [illegible] l. C. de metallarijs, [illegible] adquirenti [illegible] de quare videndus Dominus [illegible] ...

[illegible] Allia erat decima [illegible] ... [illegible] ut apud Athenienses [illegible] aliquam pecuniam [illegible] de [illegible], ad similitudinem Romanorum [illegible] celebrabatur [illegible] ut qui vinceret judicio [illegible] auferret, victi [illegible] ad [illegible] redirent [illegible] litigationis [illegible] deponebant apud sacrum [illegible] certis [illegible] §. 2. de pena temere litigantium cessavit, qui juratum introducerat [illegible] ex Imperatoris [illegible] possumus dicere in locum illius decimae [illegible] successisse illud quod vulgo dicimus, Los mil y Quinientos. #

Denique ut eam [illegible] deveniamus, scire oportet [illegible] decimas

Ita definitas ac descriptas [illegible] debeat, [illegible] ecclesiae ordinationem [illegible] Clericorum debebantur qui populo spiritualia administrabant [illegible], et [illegible] fundebat, quo quidem [illegible] Decimis, alijs, [illegible] fidelium oblationibus. Postea [illegible] factae beneficiorum singulis [illegible] parte debetur [illegible] beneficio [illegible], attributa, et annexa. [illegible] ... parrochijs [illegible] singulis [illegible] ... quilibet parrochus habet [illegible] ad has decimas exigendas [illegible] ... decimis [illegible] debent parrocho ecclesiae parrochialis, seu Baptismalis, [illegible] ... divina audiunt, et recipiunt Sacra, c. [illegible] 16. q. 1. [illegible] qualiter quis [illegible] divina audiat, [illegible] ... qualiter [illegible] decimas [illegible] Rebuffi opinionem, [illegible] q. 6. n. [illegible]. Nec aliquid [illegible] ... divina audiverit, aut Sacra [illegible] ut hodie fit, et decimas illi debeantur, [illegible] nihilominus [illegible] parrochiae [illegible] debentur c. [illegible] de parrochijs [illegible] §. 1. de sepulturis lib. 6. [illegible] ... Sacra recipiat, aut divina audiat, [illegible] ...

[illegible] parrochijs [illegible] tributum [illegible] Toleranda [illegible] ... [illegible] et Vectigalibus [illegible] docet [illegible] Rebuffus [illegible] ...

Quibus ita jam [illegible] verissimum esse [illegible] decimas

[illegible] Decimas [illegible] loquimur, [illegible] ministris [illegible] solvendas. Cuius decisio [illegible] Patres, [illegible] et utriusque scholae Theologiae [illegible] ... [illegible] decimas [illegible] oblationes [illegible] ... Apostolus altari servientes [illegible] ... olim Clerici [illegible] fideles nullas obtinuerunt, nec [illegible] particularibus bona [illegible] ... receptae fuit [illegible] decimae [illegible] ... Urbano [illegible] videntes 16. q. 1. [illegible] de Sacris ecclesiae ministris [illegible] Rebuffus in tractatu de decimis q. 3. n. 7. [illegible] decimas [illegible] ... fructuum, in [illegible] peccatorum, [illegible] decimis 16. q. 1. [illegible] ... gravissime [illegible] sacrilegium [illegible] ... [illegible] ecclesiae fraudare sacrilegium, [illegible] ... pauperes [illegible] ... decimas Deo [illegible] ... mortaliter peccat [illegible] ... [illegible] Rebuffus d. tractatu de decimis q. [illegible] ... [illegible] fructus [illegible] ... [illegible] Nam Dominus [illegible] fructus intelligi [illegible] ... ministris [illegible] specialitatis [illegible] duplex assignari potest ratio. [illegible] decimas [illegible] tributum [illegible] Decimas [illegible] ... [illegible] fructus, quos Deus [illegible] ... decimas [illegible] ... [illegible] decimas [illegible] ... Deo [illegible] decimas [illegible] ... [illegible] praecepta [illegible] moralia, quaedam [illegible] ceremonialia, Judicialia [illegible] dicebant, quae ad [illegible] hominibus exhibendis, [illegible] praecepta Decalogi: Ceremonialia [illegible] Honoris, et obsequij deo exhibendi statuta erant, [illegible] mandata mea, et ceremonias, atque judicia, [illegible] ... judicia, et ceremonias [illegible] 2. Paralipomenon c. 3. [illegible] ... [illegible] Dominus Paulo [illegible] ...

Dum [illegible] dicens, itaque lex quidem sancta et mandatum sanctum, et iustum, et bonum. Hic quidem [illegible] Paulus mandatum sanctum ad ceremonialia, iustum ad iudicialia, et bonum ad moralia [illegible]. Praecepta autem iudicialia, et ceremonialia Evangelica promulgatione cessarunt, vim que obligatoriam amiserunt, ut constat ex D. Paulo ad Galatas c. 5, moralia vero praecepta [illegible] adhuc vim obtinent, et perpetuo habebunt [illegible] Veteris Legis, scilicet decalogi sunt [illegible], ut explicant Coll. [illegible] Var. c. 17. n. 1. [illegible] canonicarum c. 21. n. 5. [illegible] praecepta ceremonialia [illegible] Veteris [illegible] Circumcisio, et similia, quae significabant adventum Christi [illegible] talimodo, ut minime a Principibus christianis [illegible] valeant, [illegible]; attamen alia praecepta ceremonialia, quae magis pertinebant ad [illegible] et quando [illegible] sacrificiorum [illegible] ad [illegible] legis, [illegible] figurationem, veluti [illegible] sacerdotum [illegible] Decimarum, et Primitiarum solutio, [illegible] et his similia, [illegible] Christi [illegible], post [illegible] Evangelica [illegible] observatio [illegible] valuit, ut constat ex [illegible] de purificatione post partum c. 1. de consecratione [illegible]. [illegible] inter praecepta ceremonialia, quae significabant adventum Christi, et inter iudicialia, et ceremonialia, quae adventum Christi [illegible] significabant; [illegible] praecepta [illegible] Christi [illegible] fuerunt mortifera, et [illegible] hodie [illegible] haeretici [illegible] Christi [illegible] venisset, at [illegible] praecepta [illegible] iudicialia, veluti exemptio clericorum, immunitas [illegible] et similia, et praecepta ceremonialia quae [illegible] significabant [illegible] ad [illegible] cultus divini pertinebant, veluti Decimarum solutio, [illegible] [illegible] fuerunt mortua, [illegible] mortifera, et [illegible] Romanus [illegible] Veteris [illegible], ut praecepta iudicialia, et ceremonialia [illegible] observarentur [illegible] Veteris [illegible] Legis [illegible] statuit. [illegible] decimarum ministris [illegible] ceremonialis, [illegible] adventum Christi significabat. [illegible] hodie [illegible] Veteris [illegible]

1.º ad § 4. [illegible] ratione. [illegible] decimas [illegible] Dominus [illegible] Gutierres [illegible] Canonic. c. 21. n. 5. [illegible] Dominus [illegible] ultimo [illegible] lib. 1. moral. [illegible] 6. c. 3. [illegible] usque ad Caput 23. ═ Nec [illegible] dubitandi ratio [illegible] decimas non deberi [illegible] propterea quod [illegible] poterat illos obligare decimas [illegible] a [illegible] Dominus [illegible] adductus. [illegible] dubitandi ratio, ac difficultas [illegible] [illegible] obligatio decimandi integre sit stabilita, [illegible] ut [illegible] mediocriter [illegible] opiniones, et [illegible], quot [illegible] auctores, alii [illegible] divino, alii [illegible] humano, alii [illegible] canonico decimas ministris [illegible] deberi [illegible]. Quare [illegible] omnes [illegible] Rebuffus, et Nav. [illegible]. Ego existimavi rem hanc tam arduam, tam [illegible] iudicio [illegible] [illegible] aut [illegible] decimas considerant quoad originem, et hinc deberi [illegible] ad [illegible] ecclesiasticorum ministrorum [illegible] tatis [illegible] cum 23 Apostolus [illegible] intelligunt [illegible] decimas [illegible] ministris [illegible] aut considerant [illegible] recognitionem supremi Dominii, ut debentur Deo 23 [illegible] 25. [illegible] 12. [illegible] [illegible] § 4 itaque [illegible] quo in casu [illegible] auctores [illegible] docent [illegible] divino decimas [illegible]. Aut denique

2.º § 5. [illegible] Decimas quoad quantitatem [illegible] iuris humani [illegible] decimas [illegible] [illegible] Didacus Perez, Gregorius Lopez, [illegible] Ceremoniales Veteris [illegible] cessaverint [illegible] decimas [illegible] Divino deberi [illegible]

1.º ad 4. [illegible] lege Canonica deberi [illegible] ═ Denique [illegible] dubitandi ratio, qua [illegible] decimas hodie ministris [illegible] propterea [illegible] habeant [illegible] [illegible] Cum difficultas dissoluta, et resoluta manebit [illegible] animadvertimus Decimas [illegible] deberi [illegible] Dei, divinique ministerii, et [illegible] ecclesiastici exercendi. [illegible] decimas [illegible] c. 24. [illegible] aut Principi opulento tributa, [illegible] denegare, aut creditori [illegible] debitum [illegible] Clericis [illegible] decimas denegandas. [illegible] assero Clericos quantumvis [illegible] decimas [illegible] solvendas [illegible] [illegible] ut docent Rebuffus, et Coll. ubi s. ═

Ex quibus omnibus, et praeque ex nostra decidendi ratione [illegible]

§ 6. [illegible] Clericus [illegible] privilegii Generalis [illegible] decimarum, [illegible] rescriptum [illegible] privilegii, nihilominus [illegible] decimas [illegible] Monachi Cistercienses illud a Romano [illegible] [illegible] decimas ex nullis [illegible] [illegible] illi quorum intererat decimas [illegible] accesserunt [illegible] [illegible] aliud rescriptum, [illegible], ut [illegible] Monachi decimas de [illegible] solverent, [illegible] decimarum [illegible] remaneant in tali obligatione. [illegible] namque [illegible] monachos [illegible] decimas [illegible] privilegio [illegible] speciale [illegible] c. de rescriptis. c. [illegible] 14. § [illegible] c. [illegible] 14. [illegible] c. [illegible] 38. [illegible] in 6.º [illegible] 30 [illegible] de [illegible] iuris. [illegible] [illegible] semper [illegible] a me [illegible] magister [illegible] Decus [illegible] Universitatis [illegible] D. [illegible] Sanchez [illegible] c. 1. de rescriptis [illegible] Doctrinae [illegible] [illegible] monachos [illegible] a decimarum [illegible] Monachos Cistercienses [illegible] ad decimas [illegible] D. [illegible] privilegium [illegible] habent decimas [illegible] principium [illegible] generale [illegible] speciale [illegible] debent decimas solvere, [illegible] habent decimas [illegible] [illegible] Cum [illegible] difficultas [illegible] generalis [illegible] ad privilegium, [illegible] [illegible] speciale privilegium posterius. [illegible] [illegible] [illegible]

salos d. [illegible] dij. [illegible] tit. 4. n.° 74 = Quo pro sic ostenso, [illegible] ut [illegible] ubi n.° 6. [illegible] docerant [illegible] que [illegible]. Varias proponit solutiones, ut constat ex traditis à [illegible] ad Decretales collect. [illegible] rela [illegible] n.° 2. qui [illegible] difficilis Dicit. [illegible] animadverto [illegible] intell. nec [illegible] plicat. [illegible] lege, ut extat inter Decreta Alex. 3 in Apendice Concilij Lateranensis [illegible] 4. [illegible]

n.° 7 qua [illegible] Cistercienses Monachos illud habere super decimis, alijs quae rebus privilegijs [illegible] [illegible] postea impetrata in facta mentione primi privilegij, [illegible] Cistercienses [illegible] privilegij quod adhuc durat decimas [illegible] rescripto [illegible] c. Cum [illegible] de rescriptis [illegible] Alex. 3. [illegible] de [illegible] religiosi [illegible] habent privilegia, quae ex indulto, [illegible] Apostolicas [illegible] mentio habita [illegible], quo indulto [illegible] religionis communicat [illegible] [illegible] Roman. receptis. Nec [illegible] obstat illa generalis regula quae cavet generi [illegible] speciei derogari [illegible] illud [illegible] intelligendum [illegible] certa [illegible] in primo privilegio, aut rescripto assignata, [illegible] n.° 6. [illegible] Cum [illegible] Cistercienses monachi Decimas solvere tenentur [illegible] obstrict. est [illegible] Decianus [illegible] 69 [illegible] n.° 74 [illegible] plures alij, quos refert et sequitur Barbosa [illegible] n.° 6. [illegible] Doctrina intelligenda [illegible] Monachis [illegible] quae obtineat decimas [illegible] religiosos [illegible] illud quod semel [illegible] Decius [illegible] c. 19. [illegible]

Hinc inde in [illegible] decimas 47. 16. q. 1. [illegible]

n.° 48 Dicemus decimas [illegible] ac [illegible] monachis, et clericis [illegible] viventibus [illegible] observari debeat, [illegible] monachos, et clericos in [illegible] decimas [illegible] tenen. [illegible] immunes [illegible] de Grat. [illegible] Gregorius [illegible] adducit [illegible] c. decimas [illegible] apparet itaque [illegible] monachos, et Clericos [illegible] Decimarum [illegible] [illegible] ac ratione [illegible] ac [illegible] quoad monachos attinet [illegible] ut decimas [illegible] religionis [illegible] ac [illegible] observantia [illegible] propria monasteria [illegible] nullus [illegible] decimas [illegible] c. ex [illegible] de decimis [illegible] intelligendus [illegible] monachi tenentur decimas [illegible] ut constat ex c. [illegible] decimas [illegible] monachis decimas [illegible] quod [illegible] attinet [illegible] Clericos in [illegible] viventes [illegible] decimas [illegible] [illegible] debeant [illegible] quam difficultatem, ut interpres [illegible] decimas [illegible] Apostolorum imponebant, ut [illegible] necessitatibus [illegible] [illegible] Habebat [illegible]

n.° 49 [illegible] exemplo, et [illegible] paupertatis [illegible] in particulari, [illegible] obtinuisset, [illegible] extravagant [illegible] observatus [illegible] Clericis, [illegible] nec in particulari aliqua bona possiderent, [illegible] evangelicam imitarentur [illegible] ad pedes Apostolorum imponerent, ut [illegible] necessitatibus subvenirent. quo [illegible] intelligendus [illegible] c. decimas [illegible] Doctrina [illegible] verissima [illegible] decisionem [illegible] Clericos [illegible] [illegible] possidere, [illegible] Clericos immunes et a decimis [illegible] apparet [illegible] [illegible] alias [illegible] Dubitandi ratio [illegible] nec [illegible] Clerici [illegible] [illegible] ideo [illegible] et [illegible] [illegible] clericos [illegible] decimas [illegible] ministri [illegible] observari, et administratione sacramentorum, [illegible] Clerici [illegible] habeant [illegible] [illegible] decimas [illegible] ex privilegio [illegible] principalitas. [illegible] Clerici [illegible] monachis, [illegible] [illegible] monachi [illegible] de Vita, et honest. Clericorum. [illegible] Doret Suarez [illegible] tract. 2. c. 3. de ecclesiasticis benef. [illegible] n.° 3. =

Rursus interpretatur [illegible] Difficilem [illegible] in aliquibus [illegible]

n.° 50 Ob [illegible] decimas solvere [illegible], erant [illegible] in certis regionibus quaedam gentes, quae Decimas [illegible] [illegible] solvebant. [illegible] domini illis sua [illegible] tribuebat, ut [illegible] Defraudantibus [illegible] propterea ad Decimas [illegible] solvebant. Huic malo cavere Desiderans [illegible] Lateranense [illegible] semper habens [illegible], ac [illegible] statuit, ut [illegible] Domini [illegible] illis hominibus sua [illegible] tradant, qui integre [illegible] decimas persolvant, [illegible] [illegible] quo [illegible] decimarum [illegible] teneatur ille qui [illegible] aliena [illegible] Respondet [illegible] illas Decimas [illegible] solvendas [illegible] debentur, aut [illegible] [illegible] adversarius [illegible] consuetudine [illegible] et decimis ministris [illegible] [illegible] solvantur, aut [illegible] [illegible] Dedicantur, [illegible] [illegible] Cuius difficultatis diluendae [illegible] itaque [illegible] Rochus [illegible] decimas personales, et decimas prediales, [illegible] Decimarum [illegible] liberentur, at [illegible] consuetudine [illegible] [illegible] decimas [illegible] ad Vigesimam, trigesimam vel [illegible] posse, tolli autem nequaquam posse

quasi ingnatae diminui, u[illegible] tolli possit, cui [illegible] subscribunt Panormitanus [illegible] n. 7. Baldus [illegible] [illegible] annuus Decimus consilio 297. Tandem Covarruvias [illegible] in observanti de decimis col. 3 existimat [illegible] posse [illegible] tudine eximi partim a solutione Decimarum personalium, ac [illegible] nulla [illegible] consuetudinis [illegible] adsequi valere, sequentur [illegible] in aliquibus ad decimas. Quam in dubitatione [illegible] tantus Virorum pace illa [illegible] quos inter Doctissimus [illegible] D. Didacus de Coll[illegible] l. var. c. 17. n. 8. asseuerat, Decimas [illegible] qua a [illegible] naturali, et Diuino [illegible] nulla consuetudine tolli, aut diminui posse, illa ratione attenta quia ingnatae [illegible] bile est ex vulgaribus iuribus [illegible] quidam [illegible] §. Anatic [illegible] de [illegible] naturali [illegible] et ciuili, [illegible] ingnate [illegible] posse, [illegible] nullo [illegible] nulla [illegible] Principis licentia, aut nulla immemoriali consuetudine fieri [illegible] vt [illegible], aut Diuino [illegible] fuerit partim violetur, aut [illegible]. at [illegible] decimas [illegible] tanti humana [illegible] Debent [illegible] tolli posse [illegible] Asseuerat, [illegible] consuetudo legitime [illegible] sit, nam quem admodum consuetudine [illegible] quamplurima tollyt [illegible] ita et decimas [illegible] humani [illegible] tolli debent, [illegible] de consuetudine [illegible] L. De quibus ff. de legibus, [illegible] obseruata manet [illegible] certo [illegible] consuetudine decimas [illegible] [illegible] consuetudine tolli [illegible] posse [illegible] patet difficultatis solutio, et explanatio licet [illegible] quamplures [illegible] [illegible] [illegible] [illegible] ad decimas [illegible] soluendas, [illegible] ratio abhorret, nam adhuc [illegible] consuetudo vim legis, consuetudinis quae habeat [illegible] [illegible] partibus, ac lex, quidem iniquus, aut [illegible] excogitari, quam [illegible] in seruitis, decimarum [illegible], nihil [illegible] ex [illegible] [illegible] de [illegible], et Dignitatibus [illegible] decimarum [illegible] seruandis [illegible] ad illos [illegible] consuetudine [illegible] et [illegible] consuetudo sit extendendo [illegible] in summa [illegible] decima [illegible]. Nec mirum videri debet consuetudinis hunc effectum in decimis habere, [illegible] in sacris [illegible] locum habet, vt accidit in sacro baptismo [illegible] ac [illegible] quandoque in baptismo trinam mersionem [illegible] Trinitatis [illegible] et Sepulturae Xpi, [illegible] minus vnitati baptismi repugnat, [illegible] licet ter mergamur [illegible] Trinitatis [illegible] in baptismo [illegible] Hieronymus [illegible] de consecratione [illegible] quae hodie [illegible] vnica [illegible] qualis consuetudo [illegible] baptismi sacro debeat seruari, [illegible] Trina, an Vnica [illegible] obseruetur, et [illegible] impugnare audet, [illegible] nihil officit sanctitati, consuetudo diuersa, [illegible] et solito [illegible] Doctissimus vir tanto virtutis genere ac litterarum [illegible] affluens quanto [illegible] laboribus debitis Desiderius Martinus [illegible] de [illegible] ar. 1. n. 9 [illegible] aliquatenus [illegible], et aliquid ex his quae dixi [illegible] perpendens, nisi [illegible] [illegible]

Deinde [illegible] Dixit [illegible]

[illegible] de [illegible] Vbi [illegible] Lateranensi [illegible] causis [illegible] leprosos [illegible] habitare in [illegible], ne [illegible] morbida [illegible] inficiat, et eos [illegible] maris [illegible] ex [illegible] animalibus [illegible] et [illegible] [illegible] volebant in illis locis in quibus [illegible], [illegible] et [illegible] habere [illegible] [illegible] et [illegible] parochialis, [illegible] in [illegible] Lateranensi [illegible] leprosis [illegible] communi [illegible] possint [illegible] in illa [illegible] quo in dubio [illegible] Lateranense statuit leprosos sub communi vita [illegible] et [illegible], [illegible] vt nulli [illegible] [illegible] quidem [illegible] leprosis [illegible] [illegible] in [illegible] decimarum [illegible] Decimarum, [illegible] nemini [illegible] [illegible] de [illegible] [illegible] et [illegible] [illegible] [illegible] [illegible] ad [illegible] reducitur. Denique dubitatum fuit [illegible] et nutrimentis animalium [illegible] decimas [illegible] tenerentur, et decidit ad [illegible] leprosos nequaquam [illegible] [illegible] decimis [illegible] [illegible] in integro soluendis [illegible] Quae difficultas [illegible] in variis [illegible] [illegible] [illegible] Abbate Panormitano n. 3. [illegible] leprosos [illegible] ad [illegible] decimas ex [illegible] et nutrimentis animalium suorum, quia ad hoc privilegium adepti fuerant a Romano Pontifice, [illegible] [illegible] accedit [illegible] [illegible] habuerant [illegible] [illegible] [illegible] [illegible] [illegible] reseruata, et [illegible] [illegible] [illegible] [illegible] [illegible] quocumque fuerint priuilegio, si aliquem [illegible] [illegible] [illegible] Decet [illegible] Vide [illegible] de religione [illegible] n. [illegible]

[illegible] [illegible] de [illegible], Decimis [illegible] de religione [illegible] l. 16. n. 4. [illegible] tract. de decimis [illegible] n. 22.

Deinde [illegible] de transactionibus decimarum [illegible] et scilicet [illegible] [illegible] [illegible] de religione [illegible] 4. c. 5. n. 20.

Deinceps [illegible] difficultas [illegible] de decimis [illegible] Emanuel de la Torre [illegible] de decimis ar. 2. [illegible] 6. n. 4. et 7.

lib. 3. tit. 34.

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Tractatus de Voto

Scheda. 43.

Utilis et valde practicabilis tractatus de voto, in quo omnia, quae ad illius naturam et essentiam conducunt, explanantur, necnon utiliores et difficiliores quaestiones deciduntur. =

Non possumus negare, clarissimi auditores, quamplurimos scriptores tam ex antiquioribus quam ex novioribus [illegible] hac materia de re et hoc de voto, varios edidisse commentarios, libros integros, egregios tractatus, speciales quaestiones [illegible] religiosis, [illegible] hoc ex his, quos qualibet [illegible] referimus. Verumtamen [illegible] facultas [illegible] quod privatus cuiusque [illegible] calamo discutitur ad brevem epilogum clare et concisse [illegible]. Colligentes itaque ex his omnibus utiliores, et difficiliores eruere, explicare [illegible] quaestiones non solum iuris pontificii professoribus, verum etiam fidelibus necessarias, [illegible] sequentibus [illegible] haec omnia digerere [illegible] quod annuite optatis viri nobilissimi, et me vobis deditissimus attendite.

Caput 1. De definitione voti, et quae ad voti validitatem necessario explicantur. =

n° 1.

Terentullius ex scriptoribus [illegible], qui Ciceronis lib. 1. officiorum sequens sententiam, a definitione [illegible], de quo sermo [illegible] exordium sumat; legis pro [illegible] Domini [illegible] Didaci de Cobo. in proemio tituli de testamentis [illegible] aliquid hac in re [illegible] notat, quem sequitur Bobadilla in sua politica lib. 2. c. [illegible] n° 7. litt. C. Quippe nos de voto tractaturi a definitione exordimur, in qua valde variant interpretes, ut [illegible] canonistae qui tradunt [illegible] in rubrica de voto et voti redemptione, et in rubrica de regularibus, [illegible] et alii in summa [illegible] Angelus, Silvester, Tabiena, et alii summistae verbo votum, Navarrus in manuali cap. 12. n° 24. [illegible] Alvarez Guerrero in thesauro christianae religionis cap. 64. Sebastianus Medices de [illegible] tionibus 2. p. cap. 33. [illegible] de [illegible] sacerdotum [illegible], [illegible] de votis monasticis in proemio, Soto de iustitia et iure lib. 7. q. 1. art. 1. Divus Thomas 2a 2ae q. 88 ar. 1. Paludanus in 4 dist. 38 q. 1. [illegible] omnes theologi, Abulensis [illegible] cap. 30. Sanchez lib. 4. in Decalogum cap. 1. [illegible] Belarminus lib. 2. de monachis cap. 15. et 16. Suarez [illegible] de religione lib. 1. [illegible] cap. 1. Petrus Gregorius lib. [illegible] partitionum iuris canonici lib. 2. cap. 1. n° 2. [illegible] Hostiensis [illegible] canonicis scribentes. [illegible] sequens Votum est liberae et deliberatae voluntatis promissio Deo facta de meliori bono [illegible] [illegible] 3. de voto et voti redemptione, c. 1. de regularibus, [illegible] de his qui [illegible] 1. [illegible] quam veriorem [illegible] summistae [illegible], ut constat ex traditis a Toleto in summa lib. [illegible], quod [illegible] [illegible] canonici scribentes, ut constat ex Hostiensi, Abbate, [illegible] de voto et voti redemptione n° 1. =

n° 2.

Igitur huius definitionis [illegible] explicemus et percurramus [illegible], quod in [illegible] fecerimus [illegible] remanebit, et [illegible] voti, [illegible] ad cuius validitatem requiruntur. [illegible] definitionis [illegible] liberae ad demonstrandum [illegible] quod votum [illegible] et vera [illegible] ut [illegible] ex [illegible] cap. [illegible] de voto, et voti redemptione, [illegible] 4. [illegible] q. 3. cap. [illegible] 33. q. 5. [illegible] de regularibus, quo [illegible] Divi Augustini, qui [illegible] deliberat, quod [illegible] perseveraret, a Gratiano relatis in cap. [illegible] 41 [illegible] Nec minus [illegible] Divi Gregorii [illegible] ut nemo [illegible] crescere [illegible] Itaque [illegible] nullius, et nec in exteriori nec in interiori [illegible] Ligat, cap. 1 de his, quae vi metusve causa fiunt, [illegible] fugiendum mortem [illegible] [illegible] religionis [illegible] ad [illegible] cum [illegible] timore mortis [illegible] Nec [illegible] votum [illegible] tenet, nam quemadmodum [illegible] nec valet nec tenet cap. cum locum, cap. [illegible] de sponsalibus cap. 1. § 4. n° 2. Navarrus [illegible] cap. 12 n° 31. et alii plures [illegible] ut [illegible] votum [illegible] utroque de iure [illegible] Liber consensus est [illegible] voluntas coacta [illegible] § [illegible] ff. de eo quod metus causa, cap. [illegible] de his quae vi, cap. [illegible] q. 1. cap. [illegible] licet 23. q. 4. [illegible] docent [illegible] cap. [illegible] 1. § 5. n° 3. de [illegible] Navarrus [illegible] n° 5. [illegible] Soto lib. 7. de iustitia et iure q. 1. ar. [illegible] Bonacina [illegible] praecepta decalogi [illegible] cap. 40 [illegible] Sanchez lib. 4. [illegible] [illegible] Basilius lib. [illegible] de matrimonio cap. [illegible] Silvester [illegible] verbo votum [illegible]

cap. cum dilectus

[illegible]

Praecepta [illegible]

n° 3.

[illegible] decisio [illegible]

sicut 1. de regularibus, et transeuntibus ad religionem, [illegible] votum [illegible] validum [illegible] cuius observationem [illegible] votum [illegible] nec in interiori nec in exteriori [illegible] =

[illegible] de repugnantia ut [illegible] in amicitiam redigant pluresque [illegible] Verum ex his omnibus [illegible] observanda [illegible] habitu [illegible] aut [illegible] ut metus mortis [illegible] ab extrinseco, sive a rebus animatis, ut timor hostis, sive ab inanimatis, ut naufragii periculum, in his casibus vo[tum] [illegible] irritatur, imo valet et tenet; [illegible] casu desmittitur [illegible] talis metus [illegible] per [illegible] finis voti, cum electio [illegible] medii vitandi periculi [illegible] quamvis implicite metu [illegible] irritatur [illegible] sufficiens ad voti [illegible] quo casu procedit [illegible] cap. [illegible] 27. [illegible] quatenus [illegible] asseritur tale votum irritari [illegible] alio fine, [illegible] ad finem voti, votum [illegible] modo [illegible] metus, quomodo interpretatur [illegible] intelligi debet [illegible] [illegible] et in materia loquentia in cap. [illegible] et in cap. Veniens de [illegible] [illegible] intelligi [illegible] [illegible] 7. §. [illegible] [illegible] quidem carcerem 22. [illegible] metus [illegible] in cap. [illegible] n.o 11. [illegible] Coll. in 7.2 [illegible] cap. 3. §. 4. n.o 26. [illegible] in manuali [illegible] 2. [illegible] Capella Tolosana decis. 89. Tiraquellus [illegible] C. de revocandis donat. [illegible] n. 1. [illegible] singulari 80.

N.o 4.

[illegible] super [illegible] doctrina difficultas [illegible] ex [illegible] metu [illegible] valet et tenet, cap. [illegible] cap. [illegible] de iureiurando, cap. Abbas [illegible] cap. ad audientiam 4 cap. [illegible] [illegible] cap. [illegible] 2. q. 6.a [illegible] Imola [illegible] Felino [illegible] 29. [illegible] D. Thomas 2.a 2.æ q. 89 ar. 3. [illegible] q. [illegible] ar. 7. Coll. [illegible] n.o 3. [illegible] [illegible] valet et tenet ita similiter votum [illegible] debet [illegible] [illegible] votum [illegible] Abbas Panormit. in d. cap. [illegible] de iureiurando [illegible] [illegible] [illegible] n. 34. [illegible] [illegible] voti obligant [illegible] principaliter [illegible] n. 74. [illegible] vota [illegible] [illegible] [illegible] cap. [illegible] 15. q. 1. [illegible] [illegible] [illegible] voti [illegible] Suarez de relig. [illegible] 3. [illegible] cap. 2. n.o 4. [illegible] [illegible] Abbas [illegible] D. Thomas 2.a 2.æ q. 88. art. [illegible] [illegible] in mera [illegible] libera [illegible] cap. [illegible] 2. q. 5. [illegible] [illegible] cap. 1. [illegible] iuramenti [illegible] [illegible] cap. [illegible] de iureiurando [illegible] obligationis [illegible] valet [illegible] [illegible] D. Thomas [illegible] q. 89 art. 7. [illegible] Caietanus [illegible] [illegible] voluntas [illegible] 15. q. 1. [illegible] [illegible] n.o 1. [illegible] [illegible] voto [illegible] Farinacius [illegible] 2. [illegible] cap. [illegible] Navarrus in manual. 12. n.o 24. Coll. in cap. [illegible] q. 8. [illegible] [illegible] in cap. [illegible] iureiurando [illegible] cap. [illegible] de iureiurando, cap. inter cætera 22. q. 4. [illegible] [illegible] [illegible] Coll. 2. [illegible] Soto [illegible] q. 1. ar. 3. [illegible] 13. [illegible]

N.o 5.

Coll. [illegible]

[illegible] votum [illegible] non obligare [illegible] [illegible] ut [illegible] et [illegible] [illegible] [illegible] [illegible] adulterii [illegible] [illegible] cap. [illegible] [illegible] Coll. in cap. [illegible] 2. [illegible] 3. q. 4. [illegible] [illegible] q. 1. [illegible] Abbas [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] in nostra [illegible] definitione [illegible] votum deliberata [illegible]

[illegible] calore iracundiæ [illegible] votum non valere nec ligare [illegible] [illegible] votum [illegible] vota [illegible] Azor [illegible] [illegible] [illegible] de iureiurando [illegible] [illegible] calorem [illegible] D. Thomas [illegible] 2.a 2.æ q. 88 art. 3. [illegible] [illegible] [illegible] [illegible] deliberatione [illegible] [illegible] votum nec valet nec ligat [illegible] [illegible] [illegible] Caietanus [illegible] 2.a 2.æ q. 88. ar. 1. Navarrus in manuali [illegible]

[Margin: [illegible] votum [illegible] calore iracundiæ [illegible] [illegible] n.o 4. [illegible] [illegible] a [illegible]]

N.o 6.

[illegible] doctrina [illegible] votum [illegible] [illegible] obligare [illegible] cap. [illegible] 11. [illegible] [illegible] cap. 1. Cod. [illegible] q. [illegible] quia votum [illegible] mera [illegible] deliberata voluntate [illegible] [illegible] [illegible] [illegible]

Votum emissum ab impubere nullum est, [illegible] quae ad eius adimplementum obstricta manere, ita docent [illegible] de voto cap. 2. n. 4. D. Thomas 2.2. q. 88. in [illegible], [illegible] voti [illegible] theologi [illegible] [illegible] in difficultate in cap. [illegible] de voto et voti redemptione ubi votum in quacumque aetate emissum [illegible] validum [illegible] ita emittens [illegible] ad impletionem [illegible] nisi [illegible] a [illegible] concedatur, [illegible] votum [illegible] [illegible] minor [illegible] [illegible] illud [illegible] impubere inefficax, et invalidum [illegible] [illegible] difficultas [illegible] animadvertendo, et considerando impuberem votum emittentem de quo [illegible] dolicapax [illegible] validum [illegible] emittendo obligetur [illegible] impuber [illegible] capax est [illegible] ex [illegible] [illegible] quemadmodum [illegible] impubes [illegible] capax [illegible] delicto [illegible] [illegible] de [illegible] [illegible] ex delicto nascuntur, [illegible] votum emittat [illegible] obligatur, et ita [illegible] [illegible] difficultatem [illegible] et voti redemptione [illegible] collorat [illegible] [illegible] antiquiores [illegible] in cap. [illegible] de voto n. 7. D. Thomas 2.2. q. 88. ar. 9. [illegible] voto [illegible] 3. q. 5. [illegible] =

n. 8.

Caeterum si impubes est filius familias [illegible] annorum, an valeat votum quaeritur, [illegible] respondeo [illegible] aetate [illegible] [illegible] quae [illegible] [illegible] [illegible] in [illegible] [illegible] patris [illegible] [illegible] [illegible] [illegible] Thomas [illegible] 1. 2. q. 88. [illegible] manuali [illegible] 1. 2. 7. [illegible] [illegible] 2. [illegible] votum [illegible] familias, [illegible] [illegible] in 2. 3. [illegible] 6. n. 4. [illegible] [illegible] votum [illegible] familias [illegible] a parentibus [illegible] [illegible] filius familias [illegible] [illegible] in Summa [illegible] q. 6. [illegible] votum Religionis [illegible] parentibus [illegible] 49. q. 8. D. Thomas 2.2. q. 101 art. 4. [illegible] art. 6. Navarrus [illegible] 12. [illegible] [illegible] [illegible] Tridentini [illegible] cap. 15. [illegible] [illegible] ad [illegible] 16. [illegible] [illegible] cent. 4. cas. 337, [illegible] cas. 90. [illegible] votum solemne religionis [illegible] [illegible] 27 q. 2 [illegible] 2. [illegible] q. 2. [illegible] [illegible] [illegible] de minoribus [illegible] [illegible] [illegible] 22. n. 12. [illegible] cap. [illegible] n. 5. de [illegible] [illegible] [illegible] religionem [illegible] [illegible] [illegible] votum solemne religionis [illegible] [illegible] D. Thomas 2.2. q. 101 art. 4. [illegible] 189. ar. 6. [illegible] [illegible] 2. q. 2. [illegible] sententiarum [illegible] 38 q. 16. [illegible] cap. [illegible] [illegible] parentem [illegible] alimenta [illegible] D. Thomas [illegible] [illegible] in manuali cap. 14. n. 14. = [illegible] religionem [illegible] parentem [illegible] filio [illegible] [illegible] [illegible] =

n. 9.

Deducitur [illegible] ex [illegible] infantibus, [illegible] infantilis [illegible] Utrumque [illegible] [illegible] [illegible] deliberatione [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 3. q. 9. [illegible] cap. [illegible] [illegible] 6. 25. [illegible] [illegible] [illegible] de [illegible] 3. [illegible] n. 2. [illegible] [illegible] 2. [illegible] [illegible] [illegible] [illegible] [illegible] 11. [illegible] [illegible] [illegible] [illegible] [illegible] 389 [illegible] [illegible] [illegible] ad [illegible] 3. =

aliquando

n. 10.

[illegible] [illegible] [illegible] deliberationis [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] D. Thomas 2.2. q. 88. [illegible] 89. q. 2. [illegible] [illegible]

qualis sit votum [illegible]

[illegible] filius familias [illegible] [illegible] peculio [illegible] [illegible] 2. n. 3. [illegible] [illegible]

[illegible] [illegible] deliberationis.

[illegible] fiat ore, ad minus fiat corde, arg. [illegible] cap. Beata Maria 27. q. 2. D. Thom. [illegible] q. 88. art. 1. [illegible] Maior [illegible] columna 3. = Verum superior doctrina difficilis redditur ex [illegible] quibus 4, 17. q. 1. [illegible] ita agere [illegible] a bono proposito recedere deliberantes, peccatum [illegible]. [illegible] quoniam [illegible] de Voto, et Voti redemptione [illegible] proponens, asserit quod obligationem Voti produci ex proposito et animo se obligandi, [illegible] dere [illegible] cap. quibus 17. q. 1. Verum haec solutio [illegible] debet, [illegible] ad validitatem Voti post propositum [illegible] tionis, promissionem corde, aut ore requiri, ut supra diximus. = Itaque respondeo [illegible] cap. quibus [illegible] peccare recedentes a bono proposito, sicut si a Voto recessisset, et Votum fregisset, id peccare quidem [illegible] instantiis, nullam [illegible] obligatio [illegible] peccatum [illegible] illa recessio a proposito boni operis, [illegible] regulariter peccatum mortale [illegible] inducat, [illegible] veniale [illegible] Divus Thomas, Caietanus, [illegible] ita interpretatur [illegible] Suarez [illegible] de relig. [illegible] de Voto, cap. 2. n. 10. =

n.º 11

2.º adversus [illegible], et doctrinam [illegible] difficilis [illegible] de regularibus, et transeuntibus ad relig. [illegible] illa quaestio [illegible] monasterium ingressus, habitum [illegible] licite possit ante professionem emissam absque aliqua Apostasiae nota, deserere religionem, et ad saeculum redire, [illegible] decidit [illegible] aut [illegible] promisisset intravit religionem eo animo, ut si [illegible] intra annum [illegible] placuisset, [illegible] terretur, et tunc [illegible] ad saeculum absque aliqua [illegible] revertere, aut [illegible] absolute [illegible] proposuit [illegible] potest [illegible] in perpetuum famulari, [illegible] mutare, tunc [illegible] potens, tamen [illegible] ad [illegible]

[margin: [illegible] religionem dimittere,]

Ex [illegible] aperte colligitur habentem propositum, et deliberatum religionem profitendi, in eo proposito, et animo perseverare debere, atque eo proposito obligari quemadmodum ex Voto, [illegible] ad Voti validitatem [illegible] Quod [illegible] difficultas [illegible] teneri, [illegible] religionem [illegible] ut ex proposito teneatur, ita docet Silvester [illegible] religio [illegible] Angelus [illegible] [illegible] 12. Verum haec doctrina, et solutio displicet [illegible] circumstantiis assumpti habitus [illegible] operatur, [illegible] probationis omnibus liceat a religione egredi, nisi [illegible] tempore renuntiaverit [illegible] cap. [illegible] Apostolicae de regularibus [illegible] renuntiatio, nec expressa nec tacita [illegible] inveniter, [illegible] renuntiatio [illegible] sufficeret, [illegible] integrum annum [illegible] in relig. remanere, [illegible] professio [illegible] teneat, [illegible] Trid. Decret. [illegible] de regularibus cap. [illegible] = [illegible] Solutio [illegible] capituli [illegible] relig. [illegible] ad [illegible] quoniam [illegible] deliberato [illegible] ad [illegible] promissio, quae [illegible] absolute, et totaliter [illegible] in [illegible] de quo [illegible] cap. [illegible] in illo monasterio, [illegible] teneri [illegible] deliberato, et promissio [illegible] eventus, quam interpretationem tradit Gutierrez [illegible] 2. Canonicarum cap. 22. n. 35. [illegible] interpretatur [illegible] cap. litteraturas [illegible] [illegible] et corde, et ore [illegible] ut ea [illegible]

[margin: [illegible] Andreas Valen. in [illegible] ad [illegible] de Voto [illegible] 4. [illegible] intelligens [illegible] n. 12 de regular.]

[illegible] ex utroque [illegible] promissionem necessariam in Voto, ita ut [illegible] valeat, nescimus qualis debeat esse promissio ad nos obligandos. Itaque promissio [illegible] simplex [illegible] aut [illegible] videamus [illegible] promissio pura; itaque Votum purum, simplex, et absolutum [illegible] interveniente [illegible] Vovens obligat sub peccato mortali, [illegible] cap. [illegible] universi 6. cap. magnae [illegible] de Voto ita tradit [illegible] 2.a 2ae q. 88. ar. 3. Silvester [illegible] Voti 2. n. 1. Soto [illegible] de iust. [illegible] q. 2. art. 2. [illegible] absolutio Navarrus in manuali [illegible] 12. n. 42. [illegible] promissio statim ac effici a Deo acceptatur, cap. [illegible] q. [illegible] [illegible] exteriori [illegible] post [illegible] absolutam promissionem aliqua impotentia interveniat, et promittens in mora [illegible] [illegible] potentia [illegible] ex re ipsa, [illegible] licet [illegible] [illegible] 45. ff. [illegible] Africanus 40 aliquid [illegible] Iulianus 41. § [illegible] ff. de legatis [illegible] conditionibus [illegible] impotentia [illegible] interveniat, ut si quis promisit ieiunare, orare, [illegible] peregrinare, et interveniente [illegible] peregrinationis, [illegible] promisit [illegible] dives, [illegible] pauper efficiatur, docet [illegible] Nav. [illegible] cap. 12. n. 40 [illegible] superveniat [illegible] superioris [illegible] absolutis, ac [illegible] devoto, et Voti redempt. = [illegible] quodcumque Votum fregerit, [illegible] mortaliter peccare [illegible] Divi Thomae doctrina [illegible] 3. ad 27 quod [illegible] Maior in [illegible] 96. col. [illegible] Silvester [illegible] Voti 2. q. 20, Nav. in manuali cap. 12 [illegible] 53. [illegible] decis. [illegible] devoto [illegible] [illegible] vovens [illegible] in mora [illegible] peccatum incurrit [illegible] Voti 27 Navarr. [illegible] cap. 12 [illegible] [illegible] et intentionis [illegible] cap. [illegible] de [illegible] operari [illegible] intentionem [illegible] creditis cap. ad audientiam [illegible] mortaliter [illegible] si [illegible] reminisci [illegible] vovens nec peccavit, nec Voti transgressor dicetur [illegible] Voti dicetur vovens, [illegible]

n.º 13

[illegible] omnia [illegible] promissio pura simplex, et absoluta [illegible] nec [illegible] obligatus [illegible] diem [illegible] expectari [illegible] ex Voto [illegible] ut [illegible] petat, itaque [illegible] Voto [illegible] [illegible] Navarrus [illegible] cap. 12. n. [illegible] mortaliter peccavit [illegible] Navarrus in manuali [illegible] cap. 12. n. 40. [illegible] [illegible] ex folio 71. pag. 2. =

[illegible] Voti validitas [illegible]

[illegible] stat quod [illegible] promittendo, [illegible] Voti [illegible] [illegible] Voto [illegible] quidem, [illegible] efficere [illegible] obligationem, quamvis [illegible] [illegible] Voti obligatione [illegible] 2. 2. ar. 5. D. Thomas [illegible] 2. 88. art. 6. [illegible] Navarrus [illegible] 12. n. 32. [illegible]

Vbo [illegible] de reliquijs, et Venerat. Sanctorum [illegible] Voluntate ad necandum [illegible] reducent [illegible] 17. § Sicut 3. [illegible] L. Sicut [illegible] de O. cap. 4. = Negatiua [illegible] [illegible] ex Voto, quam illud, quod sine Voto fit [illegible] adducunt rationes, [illegible] quia nemo in necessitatibus [illegible] de alimentis legatis [illegible] Dorat. inter Viros, et Vxores, et quia gratius est Deo quod ex mera liberalitate [illegible] q. 33. q. 5. Ex quibus duabus opinionibus, [illegible] Verior tenenda est [illegible] D. Thomas [illegible] ar. 6. [illegible] qui aliquid bonum ex Voto facit [illegible] arborem cum fructu Deo donat [illegible] sine Voto offerre fructum sine arbore [illegible] Navarro [illegible] cap. 12. n.º 32. =

[illegible] Deo Facta, [illegible] promissio facta homini Votum non est [illegible] Deo [illegible] de Voto, et Voti redemptione [illegible] Cicero [illegible] de legibus, dum ait: Diligentia Votorum [illegible] ac Voti [illegible] qua obligamur Deo [illegible] Deo [illegible] ita tradit [illegible] in Summa [illegible] Voto [illegible] quid sit Votum [illegible] Andreas Valentinus [illegible] de Voto [illegible] Siluester [illegible] Voto [illegible] n.º 3. [illegible] in Summa [illegible] cap. 49. n.º 8. D. Thomas [illegible] ar. 3. Paludanus [illegible] Theologi dist. 38 q. 1. ar. 3. [illegible] nam Votum est actus religionis [illegible] D. Thomas [illegible] ar. 5. [illegible] Voto [illegible] q. 2. ar. [illegible] et Vouere adorare [illegible] ut ait Ouidius [illegible] Metamorphoseon, [illegible] Votis numen adorat [illegible] Deo fieri non pot. = [illegible] principaliter Deo fiat Votum [illegible] promissio Sanctis [illegible] illud Valerij Maximi [illegible] cap. 1. [illegible] aliquid commendandum [illegible] Voto [illegible] Sacrificio [illegible] promissio [illegible] religionis [illegible] Deo [illegible] facta [illegible] Deo [illegible] Siluester, Toletus, Paludanus, et alij [illegible] ad Valorem Voti [illegible] Deo [illegible] Sanctis [illegible] =

Denique [illegible] per Sententiam [illegible] D. Thomas [illegible] Voto [illegible] q. 1. ar. 2. [illegible] Deo [illegible] peccatum mortale [illegible] Voti [illegible]

Summus Voti definit. de quo noster Sermo [illegible] Deo [illegible] ad Valorem Voti [illegible] Votum [illegible] obligatio [illegible] Toletus in Summa [illegible] cap. [illegible] n.º [illegible]

= Caput 2.º de diuis. Voti, vbi de Virt. obligat. =
= [illegible] Cuiuslibet agit, nec indiscriminatim [illegible] =
= Vota prosequuntur. =

Tot Voti diuisiones [illegible] Sufficiat Paludanus [illegible] Voti [illegible] dist. 38. q. 2. [illegible] Voto [illegible] aliud Voluntatis [illegible] Voti necessitatis [illegible] Paludanus in 4. dist. 38 q. 2. [illegible] Caietanus [illegible] ar. 2. [illegible] in Summa [illegible] de Voto [illegible] Nauarrus in manuali [illegible] cap. 12. n.º 32. Siluester in summa [illegible] Voto [illegible]

[illegible] Voluntatis Voti [illegible]

Votum solemne [illegible] simplex [illegible] de Voto [illegible] 6. [illegible] Votum [illegible] simpliciter [illegible] de Voto [illegible] D. Thomas [illegible]

In [illegible] Voti, de quo noster Sermo [illegible] Voti [illegible] Voti [illegible]

... qui matrimonio obstat, continetur Imperatoris Justiniani in authentica quibus modis naturales efficiantur sui § illud ... Castitatis ... pristina ... sicut ... Vulgatur C. de ...

[illegible] ... multa ... facienda ... libera Caritate ... officijs ...

[illegible] ... Dominus ... tributi ... monstraret ... scandalizaret eos ...

[illegible] ... ex voluntate ... ex Caritate provenire ...

[illegible] ... Voti adimplere ... de voto ... melius ...

[illegible] ... de obligatione Voti ...

[illegible] ... Voti adimplere tenetur ...

[illegible] ... de Voto ...

[illegible] ... ad adimplemtum Voti teneatur ... debet intelligi ...

[illegible] ... Deus ...

[illegible] ... Voti voluntarij ... ad adimplemtum Voti ...

[illegible]

n. 20

Solemne Votum tunc celebratur vel per susceptionem Sacri ordinis ...

[illegible] ... cap. unico de Voto in 6. ... Votum ... Navarrus in manuali ... cap. 22 ... n. 32 ... doctrina ... Votum Solemne ...

[illegible] ... Clerici ... Subdiaconi ... Diaconi ...

[illegible] ... Sacri ordinis Votum Solemne ...

[illegible] ... Solemne ... auth. ... C. de ...

[illegible] ... Votum Solemne ...

n. 21

Quaestio difficilis ac gemina ... Votum ...

Solemne ... Sacri ordinis ... professionem in religione approbata ...

[illegible] ... Votum Castitatis annexum ...

[illegible] ... ordini Sacro annexum ... Sebastianus ... Votum ...

[illegible] ... Castitatis annexum fuisse ordini Sacro, ut constat ex Canone 50 Apostolorum ... Bellarminus ...

De Clericis cap. 19. ...

[illegible] ... Votum Castitatis annexum ...

[illegible] ... Urbanus ... Subdiaconi ...

[illegible] ... Votum Castitatis ...

[illegible] ... Barbosa ... cap. 37. = In Hispania autem Subdiaconatus ...

Illiberitani ... Sacros ordines ... ut constat ex can. ... Illiberitani ...

Sebastianus ... de Subdiaconis § 2 ...

[illegible] ... Clericis ...

[illegible] ... Sedis Apostolicae ... Sacris ordinibus initiati ...

[illegible] ... Graeci Sacerdotes ...

[illegible] ... Sacri ordinis ...

[illegible] ... Clerici erant Sacris ordinibus initiati ...

[illegible] ... Bassius ...

[illegible] ... Graecorum ...

[illegible] ... Solemniter ... Votum Simplex ...

[illegible] ... Votum Solemne ...

[illegible] ... Votum Solemne ...

n. 22

Cum ergo asseramus duplici modo ... Solemne Votum ...

[illegible] ... Votum Solemne ... ex Sacris ordinibus ...

[illegible] ... Castitas ...

[illegible] ... Votum Solemne ... Sacri ordinis ...

[illegible] ... Subdiaconi ... Diaconi ... matrimonium ...

[illegible] ... cap. unico de Voto in 6 ...

[illegible] ... Sacerdotes ...

[illegible] ... ordinis ...

[illegible] = Fideo [illegible] sacr[orum] ordin[um] accipiens voto castitatis obstrictus remanere, ut etiam [illegible] qui sacru[m] ordine[m] accipiat, et habeat [illegible] servandi castitatis, nihilominus ad eam servandam obstrictus sit. Nec [illegible] doctrina impugnat [illegible] cap. [illegible] integritas [illegible] 2. q. 1. ex quo [illegible] obligari [illegible] animo [illegible] castitatis servare. [illegible] qui sacru[m] accipit ord[inem] [illegible] animo castitatis servandae [illegible] obligatus [illegible] dicimus. [illegible] namque [illegible] verissimum [illegible] castitatem servare debere [illegible] dicti capituli integritas [illegible] sacros accipit ordines, eo ipso quod [illegible] habuit [illegible] [illegible], ubi intelligitur tacita obligatio castitatis servandae [illegible] vere, et realiter [illegible] [illegible] difficultas [illegible] doctrina [illegible] in rubrica qui clerici vel vovent[es] [illegible] Navar. [illegible] cap. 22. n. [illegible]
n. 23.

[illegible] verissimus [illegible] sacri ordinis [illegible] matrimonium postmodum [illegible] dirimere [illegible] [illegible] adversus [illegible] difficultates [illegible] ex can. 6. Apostolorum [illegible] aut presbiter uxorem [illegible] nequaquam [illegible] religionis abiiciat. ex [illegible] aperte colligitur in presbiteral[i] aut episcopali dignitate [illegible] matrimonio [illegible] remanere [illegible] posse [illegible] quae docemur [illegible] solemne [illegible] sacri ordinis [illegible] matrimonium dirimere [illegible] = Secunda difficultas oritur ex Concilio Gangrensi can. [illegible] quicumque discernit a presbitero, qui uxorem [illegible] ministrante de oblat[ione] [illegible] anathema sit. ex quibus [illegible] presbiter matrimonio [illegible] [illegible] nec presbiter, nec diaconus, nec subdiaconus [illegible] = 3. difficultas [illegible] ex Divi Augustini auth[oritate] [illegible] de [illegible] [illegible] cap. 26. [illegible] in can. [illegible] Ecclesia [illegible] instituta [illegible] continentiam [illegible] sacer ordo dirimat matrimonium [illegible] [illegible] = Posterior difficultas [illegible] ex [illegible] Diaconi [illegible] qui didicimus [illegible] ex Sinodo Ancyrana [illegible] Diaconi quicumque [illegible] ordinantur [illegible] ordinatione [illegible] dicentes velle se habere uxores, nec posse continere, hi si postea ad nuptias venerint, maneant in ministerio [illegible] licentiam dederit. [illegible] [illegible] Diaconus, qui [illegible] sacro [illegible] ordine, recte [illegible] matrimonium [illegible] licentiam hoc faciendi [illegible] ex quibus omnibus authoritatibus videtur probari votum solemne [illegible] ut matrimonium [illegible] [illegible] dirimatur [illegible] illud quod superiori num[ero] [illegible] =

n. 24

Verum [illegible] quatuor difficultatibus non obstantibus nec [illegible] facientibus [illegible] Dicendum est verissimam esse superiorem doctrinam [illegible] votum solemne [illegible] sacri ordinis [illegible] matrimonium postea [illegible] dirimit [illegible] satis [illegible] verissimum [illegible] tenendum [illegible] = Nec [illegible] obstat [illegible] difficultas [illegible] ex dicto can. 6. Apostolorum [illegible] dicendo [illegible] Canonis intelligi de uxore ante ordines habita [illegible] [illegible] quoad carnale commercium. [illegible] doctrina, et solutio colligitur ex [illegible] [illegible] cap. omnimodo 11. 31 dist. = Nec [illegible] obstat 2. difficultas deducta ex can. [illegible] Concilii Gangrensis [illegible] Dicendum est praedicti canonis sensum [illegible] ut [illegible] intelligatur de presbitero illo, qui uxorem habuit, hic namque recte [illegible] ergo [illegible] dixerit [illegible] qui habuit uxorem [illegible] ministrare [illegible] nec ad sacros ascendere debere ordines, anathema sit, qui [illegible] verum sensum dicti [illegible] = Minus obstat 3. difficultas deducta ex Divi Augustini auth[oritate] [illegible] [illegible] dicendo [illegible] in can. [illegible] deducta est, imo [illegible] ex Graciano [illegible] [illegible] habere, 2. [illegible] [illegible] continentiae sub [illegible] quae antea erat [illegible] sic [illegible] intelligi [illegible] illud 35. 9. [illegible] [illegible] obstat postrema difficultas [illegible] ex [illegible] cap. Diaconi 28. dist. [illegible] sermone [illegible] Graec[illegible] [illegible] ad sacros ordines ascendere, [illegible] doctrina [illegible] moral. cap. [illegible] debet intelligi [illegible] ante Diaconatum [illegible] [illegible] velle se uxores habere, id est, retinentes [illegible] velle [illegible] matrimonio uti, [illegible] postea dicit, si postea ad nuptias venerint, [illegible] difficultas [illegible] superiori doctrinae [illegible] [illegible] moral. cap. 22. q. [illegible] Bellarminus in [illegible] controversiis [illegible] de clericis cap. [illegible] Sanchez [illegible] de matrimonio [illegible] [illegible] 24. [illegible] =

n. 25.

Licet [illegible] ex superioribus [illegible] sacri ordinis [illegible] solemne emissum [illegible] dirimat matrimonium postea [illegible] sacer ordo matrimonium dirimat. [illegible] = 1. [illegible] statutum est ut [illegible] sacri matrimonium [illegible] dirimat [illegible] doctrina ex sequentibus [illegible] solemne ordinis sacri [illegible] ex cap. unico de voto [illegible] quemadmodum votum solemne [illegible] religionis [illegible] [illegible] ut [illegible] [illegible] obligare [illegible] matrimonium [illegible] traditio [illegible] sacri ordinis [illegible] matrimonium [illegible] traditio [illegible] mere [illegible] matrimonium sacer ordo [illegible] traditio [illegible] ordinis sacri [illegible] divino [illegible] libertatem [illegible] sacer dirimat matrimonium [illegible] [illegible] matrimonio [illegible] tenenda [illegible] [illegible] sacris ordinibus initiatos ad matrimonium [illegible] [illegible] quamplures [illegible] rationes [illegible] qui [illegible] [illegible] matrimonium [illegible] alia plura [illegible] [illegible] Divus Thomas in 4. dist. 37. q. [illegible] Paludanus [illegible] Cajetanus in opusculis [illegible] [illegible] cap. 5. [illegible] Bellarminus in [illegible] controversiis [illegible] de clericis cap. [illegible] [illegible] cap. 6. [illegible] de voto [illegible] [illegible] Thomas Sanchez [illegible] de matrimonio [illegible] 23. [illegible] n. 1 [illegible] [illegible] libentius [illegible]

n. 26.

[illegible] sacri ordinis emisso [illegible] [illegible] nunc [illegible] votum solemne [illegible] tenendum est votum solemne [illegible] matrimonium postea [illegible] ex [illegible] illud dirimere [illegible] ex [illegible] Toletano [illegible] can. 6. [illegible] Toletano [illegible] can. [illegible] [illegible] de matrimonio [illegible] doctrina [illegible] qui clerici [illegible] [illegible] Sanctus [illegible] Cyprianus [illegible] epist. [illegible] ad Pomponium [illegible] [illegible] Theodoretus [illegible] Divus Thomas [illegible] [illegible] Navar. in manual. cap. 22. n. 31. [illegible] Bellarminus [illegible] controversiis [illegible] de Monachis cap. 22. = Cuius doctrinae [illegible]

ra[illegible] redd[illegible] inter[illegible]; nam [illegible] ut religiosi statum perfectiori relicto ad [illegible], hoc est ad relig[ionem] transeant magna erat [illegible] annua probat[ione] [illegible] enim si ipsi post profess[ionem] factam valide possent matrimonium inire [illegible] descendendi ad [illegible] [illegible] exteriori fide violata, scandala quae semper vitanda sunt pullularent, hanc ra[tionem] [illegible] melius docuit Thomas Sanchez [illegible] 7. de matrimonio disp. 26. n. 2. [illegible] =

n. 27.

Quamvis [illegible] verissimum sit [illegible] profess[ionem] [illegible] relig[ionis] approbatae factam [illegible] dirimere matrimonium postea [illegible] virtute voti solemnis quod [illegible] tamen aliquae inveniuntur difficultates [illegible] [illegible] = Imprimis adversus [illegible] urget [illegible] in cap. [illegible] 4. [illegible] [illegible] ubi mulier [illegible] velum de manu [illegible] accepit [illegible] anno [illegible] matrimonium [illegible] votum solemne [illegible] religionis approbatae [illegible] matrimonium [illegible] [illegible] votum solemne intervenire [illegible] [illegible] velamen [illegible] [illegible] votum [illegible] regularibus, et transeuntibus ad religionem, cap. [illegible] interrogatus [illegible] = [illegible] doctrina difficilius redditur ex sequenti [illegible] [illegible] votum dispensari, absolvi, commutari, redimi, irritari [illegible] cap. venerunt 2. cap. magnae 7. [illegible] aliis de voto, et voti redemptione; [illegible] solemne votum [illegible] semper dirimet matrimonium. = [illegible] superior [illegible] ex [illegible] votum commutare [illegible] cap. [illegible] de [illegible] cap. [illegible] de voto [illegible] commutare votum [illegible] qui religionem ingressus [illegible] potest illud votum commutando [illegible] deserere, et matrimonium contrahere, [illegible] male [illegible] voti solemnis [illegible] profess[ionis] in relig[ione] approbata [illegible]

n. 28.

Quibus difficultatibus non obstantibus dicendum [illegible] verissimum [illegible] Doctrina [illegible] tanquam de fide tenenda [illegible] votum solemne [illegible] profess[ionis] in relig[ione] approbata factae subsequens dirimere matrimonium [illegible] [illegible] proposuimus. Nec adversus illam superiores difficultates quidquam obstant. Non [illegible] ex [illegible] cap. [illegible] [illegible] venerit [illegible] respondendum [illegible] dicendo [illegible] votum religionis solemne [illegible] semper legitimi superioris auctoritate interveniente debet fieri, [illegible] [illegible] mulier [illegible] posse contrahere, nec obstat quod [illegible] accept[ione] velaminis votum solemnizetur, nam illud intelligitur quod quis accepit velamen animo perpetuo permanendi in relig[ione] [illegible] cap. [illegible] [illegible] velamen acceptum fuit animo [illegible] in relig[ione] = [illegible] difficultas [illegible] [illegible] respondendum [illegible] legitima [illegible] interveniente licet sit superiori [illegible] votum commutare, dispensare, redimere, irritare [illegible] solemne [illegible] profess[ionis] in relig[ione] approbata [illegible] [illegible] [illegible] auctoritate interveniente [illegible] matrimonium [illegible] Nec [illegible] [illegible] licet [illegible] auctoritate quandoque commutare votum, hoc intelligitur [illegible] [illegible] votum [illegible] mutando [illegible] [illegible] fieri [illegible] = [illegible] explicandum [illegible] quod [illegible] votum solemne [illegible] in relig[ione] [illegible] subsequens dirimat matrimonium, quam rem elegantes decidit triplicem generosum [illegible] fundamentum [illegible] [illegible] Thomas Sanchez [illegible] de matrimonio disp. 26. [illegible] illud omittimus, [illegible] explicare desiderantes. =

n. 29.

Illud autem [illegible] solet, an sicut votum solemne religionis [illegible] [illegible] dirimit de facto [illegible] matrimonium ante legitimum contractum [illegible] dirimere, [illegible] in seculo remanens, [illegible] ad relig[ionem] [illegible] [illegible] matrimonium ratum [illegible] alteri [illegible] religionis [illegible] ut [illegible] [illegible] possit [illegible] matrimonium contrahere, ex cap. [illegible] 2. [illegible] Thomas Sanchez [illegible] de matrimonio [illegible] 29. [illegible] cap. 6. [illegible] de matrimonio cap. [illegible] [illegible] de matrimonio [illegible] [illegible] matrimonium [illegible] [illegible] [illegible] Sanchez [illegible] de matrimonio [illegible] 26. [illegible] matrimonium ratum [illegible] [illegible] [illegible] de [illegible] [illegible] cap. [illegible] [illegible] Thomas [illegible] Sanchez [illegible] de matrimonio [illegible] Petrus [illegible] de matrimonio fol. 446. [illegible] =

n. 30.

Ex quibus [illegible] colliguntur [illegible] [illegible] profess[io] in relig[ione] approbata facta, [illegible] voti solemnis [illegible] [illegible] votum [illegible] dirimit matrimonium ex natura [illegible] [illegible] humana [illegible] [illegible] Thomas [illegible] ar. 11. [illegible] [illegible] matrimonium [illegible] [illegible] relig[ionem] [illegible] [illegible] matrimonium [illegible] ex extravaganti [illegible] Joannis 22. de voto [illegible] [illegible] [illegible] [illegible] ar. 8. [illegible] 6. [illegible] cap. [illegible] [illegible] profess[io] in relig[ione] approbata [illegible] religionis [illegible] [illegible] intervenerint [illegible] [illegible] Petrus Gregorius [illegible] de voto, cap. 5. [illegible] =

n. 31.

Hic [illegible] votum solemne [illegible] [illegible] celebrari [illegible] votum [illegible] [illegible] [illegible] religionis approbatae [illegible] matrimonium [illegible] [illegible] [illegible] de voto [illegible] cap. [illegible] [illegible] matrimonium [illegible] 4. [illegible] 44. [illegible] Thomas Sanchez [illegible] de matrimonio [illegible] 11 [illegible] votum simplex [illegible] [illegible] impediat, et [illegible]

[illegible] 333

Verum dominium apud ita[illegible] conventum manet. [illegible] ut impediat licite translatus dominii [illegible] in alterum ut esse [illegible] filius [illegible] irritare [illegible] quamvis [illegible] potuerit [illegible] irritare matrimonium post simplex castitatis votum [illegible] sicut [illegible] impedimentum dirimens statuere [illegible] declaravit [illegible] =

[illegible]

n. 32. [illegible] testimoniis, et magnopere urget Urbani [illegible] relatum in cap. [illegible] [illegible] castitatis votum [illegible] =
Rursus obstat Div. Gregorii [illegible] relata in cap. [illegible] 10, 2[illegible] [illegible] simplex votum castitatis [illegible] Concilii Tridentini [illegible] votum simplex castitatis impedire tantum [illegible] dirimere matrimonium [illegible] votum simplex [illegible] =

[illegible] votum [illegible] castitatis [illegible] Diaconi [illegible] Thomas Sanchez [illegible] de matrimonio [illegible] Thomam [illegible] religionem [illegible] =

n. 33. [illegible] cap. [illegible] 6. [illegible] simplex votum apud Deum [illegible] obligare [illegible] solemne [illegible] simplex votum apud Deum [illegible] quam solemne [illegible] votum solemne [illegible] dirimere [illegible] simplex votum castitatis [illegible] votum simplex et solemne [illegible] votum solemne [illegible] votum simplex castitatis [illegible] =

Caput 33. De dispensatione votorum, ubi quoque [illegible]

[illegible] dispensare [illegible] votis possit, explicatur:

n. 34. Qualiter et quando emittentes votorum [illegible] obligatos relinquat [illegible] capite explicatum extat. Videamus nunc quibus modis [illegible] liberemur [illegible] Div. Thomas 2.a 2.ae q. 88. ar. 10. [illegible] Sanchez [illegible] votis [illegible] Sacerdotis [illegible] de voto [illegible] de dispensatione [illegible] cap. 4. §. 7. [illegible] votis [illegible] Romanus [illegible] votis tam solemnibus quam simplicibus [illegible] ultramarinis [illegible] cap. [illegible] de voto [illegible] =

n. 35. [illegible] votis [illegible] Div. Thomas [illegible] q. 88. ar. [illegible] [illegible] ad praecepta decalogi [illegible] Romanus Pontifex [illegible] de voto [illegible] votis [illegible] =

n. 36. [illegible] Romanus Pontifex [illegible] votis dispensare [illegible] votis [illegible]

Basilius plures referens [illegible] de matrimonio cap. 10. n. 2. Sanchez [illegible] de matrimonio [illegible] [illegible]

... Summum ... dispensare ... Votis ... bono

... ostendit vero ... adquirit rationi ... repugnat, quod ... potestas haec Pontifici ... debet. Accedit ... [illegible] fuit pro bono domestico et oeconomico gubernationis, ut pater, ac vir possent irritare filiorum, ac uxoris vota, et religionis [illegible] ut posset ... [illegible] Vota; Cur neganda erit Summo Pontifici potestas dispensandi ob omne ... bonum ... [illegible] ... docet eleganter Thomas Sanchez lib. 8. de matrimonio disp. ... n. 7. ... =

n.º 37.

Quamvis ... asseramus Summum Pontificem dispensare posse in omnibus votis tamen ... quamdiu ... intelligendum ... aliquam ... publica causa ... [illegible] ... suadeat, neque dispensatio ... sine aliquo statu religionis detrimento ... [illegible] ... statu religiosi detrimento. Itaque quando Pontifex ... dispensat in voto solemni ... [illegible] ... publica ... causa debet ... moneat, ut advertit Thomas Sanchez ... [illegible] Basilius ... [illegible] ... Cerdua ... [illegible] ... =

... dispensatio ... [illegible] ... ex doctrina ... Doctorum = ... legitima causa interveniente ... dispensatio, sequitur inde, ... erat ... ordinibus, aut qui monasticam vitam professus fuerat, ita ab oneribus ... status ... maneat, ut nec divinum officium recitare teneatur ad quod ante ... tenebatur ... qui habitum monachalem ... dispensationis ... Seculares sicut a ceteris monasticae vitae oneribus liberatur, ita et a recitandi obligatione, ut tradit Sanchez ... n. 11 ... relatis =

n.º 38

Quibus ita ... non obstant ... adducte difficultates ... animadvertendum ... proprie ... dispensationem super voto non cadere, sed declarationem ... Pontifex dispensat ... declaratio ... causa legitima, ut resolvunt Silvester ... Votum ... n. 37, Navarrus in manuali ... [illegible] ... D. Thomas ... art. 10 ad 2 ... [illegible] ... quamvis ... non possit tollere divinam legem, nec dispensare ... dispensatio ... relaxatio ... [illegible] ... tamen ex causa ... Dei Vicarius ... declarat divinam legem ... [illegible] ... communis ... [illegible] ... dispensatio, et declaratio ... de voto ... [illegible] ... de Constit. Principis ... [illegible] ... nemini licet legem divinam declarare ... [illegible] ... declarare ... [illegible] ... monachi ... monachus ... [illegible] ... Declarantis ... condendi ... Legis divinae ... legem declarare ... extravaganti unam sanctam de maioritate et obedientia ... efficere ut omnia vota tam simplicia quam solemnia omnino ... dispensationis ... n.º 36.

n.º 39

Minus obstat 2.ª difficultas ... semel consecrata ... [illegible] ... monachus ... [illegible] ... Solemnitas ... dispensare ... quod semel consecrata fuerit ... quod ... Deus ... [illegible] ... Basilius ... de matrimonio ... Thomas Sanchez ... medium. = Nec obstat ... Romanus Pontifex dispensaret ... [illegible] ... Licentia ... [illegible] ... quamcumque ... [illegible] ... Votis ... legem Dei ... [illegible] ... Vota ... dispensare posse. =

n.º 40

Denique ... obstat posterior difficultas deducta ex ... de monasteriis ... statu monachorum ... [illegible] ... = Nec ... de ... Concilio Illiberitano ... [illegible] ... Innocentius ... in Votis solemnibus religiosorum dispensare ... [illegible] ... ex ... religionis ... [illegible] ... legitima causa ... dispensandi, nec dispensator nec dispensatus ... [illegible] ... monachus ... tria Vota ... paupertatis, et obedientiae ... religiosis ... [illegible] ... Basilius ... de matrimonio ... Palud. ... n. 11 ... Abbatem monasterii ... hyperbolica ... Thomas Sanchez ... de matrimonio ... medium. =

n. 41

Ex his ... quam habeat potestatem Summus Pontifex ad dispensandum in omnibus Votis ... [illegible]

et Apostolicae Sedi [illegible] Trid. [illegible] n. 44. cap. 7. [illegible] ... similiter [illegible] vota Romano Pontifici reservata, Votum [illegible] religionis, peregrinationis in terram Sanctam, et ad Sanctum Jacobum in Compostella, et ad Sanctos Apostolos Petrum et Paulum in Urbe Romana, [illegible] [illegible] declarationis [illegible] de consuetudine reservata [illegible] Romano Pontifici, cap. [illegible] [illegible] et [illegible] aliis de Voto cap. [illegible] de regularibus, cap. [illegible] ad monasterium de Statu monachorum [illegible] Extravagante de poenitentiis et remissionibus, quod [illegible] docent [illegible] [illegible] n. 12. [illegible] [illegible] cap. [illegible] n. 4. Navar. in manuali [illegible] cap. 12. n. 57. [illegible] [illegible] [illegible] q. 4. ar. 3. pag. 622. ut [illegible] defendat [illegible] nulla [illegible] Romano Pontifici [illegible]

[illegible] itaque quinque [illegible] enumerata, regulariter [illegible] dispensare [illegible] [illegible] ut [illegible] Summo [illegible] reservata, et [illegible] [illegible] [illegible] dispensare posse [illegible] reservat. [illegible] Doctores [illegible] [illegible] [illegible] multa [illegible] [illegible] Divus Thomas [illegible] [illegible] [illegible] [illegible] Navarrus in manuali [illegible] cap. 12. n. 75. [illegible] [illegible] [illegible] Basilius [illegible] cap. [illegible] n. 6. = [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] habet potestatem ordinariam et [illegible] reservata [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] de sponsalibus [illegible] Divus Thomas [illegible] [illegible] Basilius [illegible] et alii [illegible] citati. =

Licet autem [illegible] dispensare posse in omnibus [illegible] n. 41. [illegible]

n. 43.

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Summo Pontifici, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Hierosolymitanum [illegible] [illegible] reservatum [illegible] a solo Pontifice [illegible] dispensari [illegible] = [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Voti religionis, vel Hierosolymitani, aut simile [illegible] reservati Pontifici [illegible] [illegible] [illegible] [illegible] n. 12. Soto [illegible] q. 2. ar. 2. Navar. [illegible] cap. 12. n. 92. = [illegible] religionis, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Pontifici [illegible] absoluta, et pura religionis, castitatis, Hierosolymitani, Sancti Petri, Sancti Jacobi, [illegible] Thomas [illegible] [illegible] Suarez [illegible] 6. de Voto cap. [illegible] n. 1. 6. [illegible] [illegible] [illegible] [illegible] [illegible]

Basilius [illegible] cap. 9. n. 6. =

Ex quibus duabus opinionibus posteriorem amplectendam arbitramur, [illegible]

n. 44.

[illegible] Hierosolymitani [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] =

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

n. 45.

[illegible] Summo Pontifici reservata [illegible] Palu-danus in 4. d. 38. q. 4. ar. 4. Soto [illegible] 7. q. 5. ar. 5. Navar. in manuali [illegible] cap. 12. n. 76. Angelus, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] religionis [illegible] Navar. [illegible] cap. 12. n. 76. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] =

n. 46.

[illegible] Navar. [illegible] c. 12. n. 75. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] q. 4. ar. 3. = [illegible] [illegible] [illegible] [illegible]

absolute [illegible] Archiep[iscop]o super votis [illegible] reservatis, et ob eius [illegible] [illegible], [illegible] dispensandi ita [illegible], et [illegible] sicut qui iudicare [illegible], nec possit dispensare [illegible] antiqua [illegible]
[illegible] de [illegible], quod limitat, quod Archiepiscopus [illegible] visitando loca suffraganea
possit super subditis [illegible] suffraganeo dispensare, ita [illegible] [illegible] [illegible] [illegible]
[illegible] vota abrogare, absolvere, commutare possit [illegible] [illegible] bullae Sanctae Cruciae [illegible]
[illegible] capite, et de commutatione [illegible] ad alia [illegible] [illegible]

n.º 47

[illegible] ex dispensatione [illegible] [illegible]
[illegible], reservatis [illegible] Pontificiae [illegible] nostrae huius Universitatis Cancelarius potestatem dispensandi, absolvendi
[illegible] obtinere [illegible] 33. [illegible] [illegible] [illegible] per [illegible] dictae Universitatis [illegible]
[illegible] [illegible] [illegible] difficiles [illegible]
Scholasticis [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] facultas [illegible] quod Cancelarius Salmantinus [illegible] habeat dispensandi potestatem [illegible]
[illegible] originario, qui ad hoc ex dispositione iuris habere [illegible] [illegible]
[illegible] Salmantici fuerit, et [illegible] Salmantinus [illegible] [illegible] [illegible] maiorem [illegible]
[illegible] in relatis quae haec omnia docent. Prosequitur Didacus Perez [illegible] lib. [illegible] ordinamenti. =

n.º 48

Tandem [illegible] [illegible] aliqua vota emittentes dispensatio [illegible]
[illegible] Superiorum [illegible] [illegible] [illegible] dignissimo [illegible]
monachus [illegible] facere votum [illegible] nec [illegible] [illegible] et de [illegible] obedientiae [illegible]
[illegible] 2. [illegible] 4. [illegible] 37. [illegible] [illegible] Suarez [illegible] de voto [illegible]
Sanchez [illegible] in decalogum lib. 4. cap. 25. a n.º 1. usque ad 36. [illegible] [illegible] de voto [illegible] n.º 30 [illegible]
emittant [illegible] [illegible] vota [illegible] [illegible] [illegible] et multis [illegible] [illegible] religiosi [illegible]
[illegible] [illegible] monachis, et [illegible] monachis, [illegible] n.º 4 [illegible] [illegible]
et [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] superiorum [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] nec [illegible] nec [illegible] [illegible] superiorum [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] D. Thomas [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
Et licet [illegible] [illegible] [illegible], quae [illegible] superiorem posse dispensare [illegible] monachis, tamen [illegible] dubia
[illegible] [illegible] [illegible] [illegible] superiores habent, [illegible] religionem [illegible]
[illegible] decalogi [illegible] [illegible] [illegible] [illegible] [illegible] Thomas [illegible] Caietanus [illegible] [illegible]
[illegible] Rodriguez [illegible] =

Haec itaque dicta sufficiant [illegible] vota religiosorum, [illegible] [illegible]

n.º 49

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] Capellus, [illegible] clericus [illegible] [illegible] illa vota emittere, [illegible] aliquo [illegible]
ita [illegible] in cap. magnae [illegible] de voto [illegible] Canonicam [illegible] [illegible] [illegible]
[illegible] debeat, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] professionis, [illegible] [illegible] [illegible] 22 [illegible] [illegible]
[illegible] [illegible] [illegible] monachum [illegible] [illegible] [illegible]
[illegible] [illegible] professione, [illegible] [illegible] [illegible] [illegible] [illegible]
hanc fiduciam [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] Suarez [illegible] de voto cap. [illegible] S. Thomas Sanchez in decalogum [illegible] lib. 4. cap. 25. n.º 44. = [illegible]
[illegible] [illegible] [illegible] clericus [illegible] qui beneficium [illegible] authoritate [illegible] beneficio [illegible]
[illegible] nec [illegible] [illegible] [illegible] episcopi authoritate, [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] status clericalis, [illegible] Sanchez [illegible] [illegible] [illegible] [illegible] dubio [illegible] de resignatione
beneficii [illegible] Sanchez [illegible] dispensat. [illegible] 2. n.º 2. Garcia de beneficiis [illegible] [illegible]
[illegible] a Barbosa [illegible] alleg. 89. [illegible] ecclesiastico [illegible] [illegible] beneficio [illegible]
[illegible] in cap. [illegible] [illegible] videtur beneficii [illegible] superioris licentia [illegible]
[illegible] [illegible] [illegible] [illegible] emittere [illegible] clericus [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] beneficii [illegible] =

Denique ut hoc [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] vota emittere [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] licentia [illegible] [illegible] intelligitur [illegible] dispensando [illegible]
[illegible] [illegible] [illegible] Nec [illegible] poterit [illegible] vota [illegible] emittere [illegible] grave [illegible] [illegible]
[illegible] [illegible], [illegible] [illegible] [illegible] Thomas Sanchez lib. 6. in decalogum cap. [illegible]

[illegible] doctrina [illegible] [illegible] [illegible] religiosi [illegible] monachi nec [illegible] [illegible] absolute [illegible] videas. [illegible]

[illegible] lib. 6 cap. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

Caput 47 de commutatione votorum, ubi quis eam mutare possit, et quae causa necessaria sit, et quos commutationes recipiant, explicatur, et veraluce donatur. =

Nº 1

Ut hunc nostrum tractatum de voto perfecte et ut nostrum est dilucide concludamus, superest nobis offert in hoc ultimo capite votorum commutatio. itaque in primis animadvertimus rigore iuris attento exceptis votis reservatis caetera omnia vota quae vovens recte commutari posse in id, quod evidenter melius est, et Deo gratius absque eo quod alicuius Superioris authoritas interveniat, itaque ob talem commutationem propria authoritate factam vovens transgressor voti non dicitur, nec mortaliter peccat, ut probatur ex textu in cap. Scripturae 4. de voto, et voti redemptione, et ex textu in cap. pervenit 3. de iureiurando, non enim propositum, aut promissum infringit qui in melius illud commutat, ita docet D. Thomas 2ª 2ª q. 88 ar. 12 ubi Caietanus, Soto lib. 7. de iustitia et iure q. 4 ar. 3. Navarrus dicto cap. 12. nº 8. Coll. in cap. quamvis pactum de pactis in 6º. §. 3. nº 4. Thomas Sanchez lib. 4. in decalogum cap. 45. a nº 36 usque ad 52. ubi explicat dictum caput Scripturae de voto, Suarez tomo 2º de religione lib. 6. de voto c. 18. Azor 1. p. instit. moralium lib. 11. cap. 18. q. 5. quae doctrina eo quod licet ut diximus attento iure rigore verissima sit, melius tamen erit nobis, et in talibus casibus viros Superiores consulatur; horum consulendum et in conscientiae foro securius esse testantur Cardinalis Tursca... Bueno, et Albornoz, ... in dicto cap. Scripturae 4. nº 2. et 3. de voto, et si res in quam commutatur votum evidenter sit melior, si in voto fiat dubium, quam constat non esse evidenter meliorem, vovens non poterit propria authoritate sine consilio, et authoritate Superioris, quia sine causa legitima votum commutare, et commutatio facienda in rem aeque bonam, usque cognitio in dubio ad Superiorem expectat an liceat commutare votum in aliud Deo acceptius, ut constat ex textu in cap. 1. de voto et responsemus, quod ab illius qui praeest pendet arbitrio, ut considerat diligenter qualitatem personae et causam commutationis, tradit Belarminus lib. 2. de monachis cap. 44. cum multis allegatis, ubi praedictum caput explicat. Idemque observandum in casu, quo dubitatur esset evidenter melius sit, sed dubitetur an res in quam commutatur sit melior, et Deo gratior, tunc enim namque non sine Superioris authoritate, et legitima causa non potest commutatio fieri probatur ex dicto cap. 1. et citati authores cumulat, quod tamen eque definiunt asserentes in casu sequenti hoc, quod solam commutationem licitam esse commutationem absque eo quod Superioris interveniat authoritas, velut si quis promisit frumentum, et illud solvit aequivalens respectu temporis, iuris causa, et omnium circumstantiarum quae occurrere possint; tunc enim nulla iniuria accipienti fit, sicque talia praestans a tali vinculo exemptus erit ex dispositione tam canonici quam civilis iuris. =

Nº 2

Licet quod ex dictis constet commutationem votorum propria authoritate factam quae res evidenter melior est, licitam esse, tamen hoc animadvertimus observandum tantum esse in votis, quae reservata non sunt, in reservatis namque, qualia sunt, quae in superiori cap. prosequimur, nisi Papae authoritas interveniat talis commutatio nulla est; sed qualitercumque fiat talis commutatio; dubium adversus plures disputationes, vovens ita liberat a priori voto, ac si tale votum non emisisset, non adimplendo illud posterius in quo prius res commutata fuit, esse quod promisit adimplesse videtur. Vel dubium oritur an si quis votum castitatis emittat, et petat commutationem a Romano Pontifice, et Romanus Pontifex praedictum votum castitatis commutavit in ... menstruam, et ipsa non impleverit praedictam commutationem; si multis transactis mensibus absque confessione remaneat, teneatur illud votum castitatis, quod antea emiserat adimplere, perinde ac si talis commutatio facta non foret, ut hic casus dubius intelligatur quo ad materiam hominis, quamvis multiplex sit, exprimendum est. Prima sententia est, quae docet vovens obstrictus esse illud prius votum castitatis observare casu, quo culpa sua non adimplevit votum, vel si non habuit animum adimplendi tempore quo commutatum fuit, quae ... ratione fundamentum nititur; nam vinculum prioris voti non omnino extinctum fuit, sed in aliud magis translatum, hicque translatio fit instar contractus conditionalis, facio ut ... facias, qui ... commutat unum in aliam sub tacita conditione, si executioni mandet, ... prior ... sufficiet; et hanc opinionem sequuntur Soto d. lib. 7. de iustitia et iure q. 2. ar. 5. ... relati a Thoma Sanchez lib. 8. de matrimonio disp. 9. nº 21. = ... votum castitatis ... non adimplens ...

p[er]d[ic]t[u]m confessorem electum, in quam commutatio facta fuit per se, si velit propria auth[orita]te ad id voti[s] [illegible]
tenetur adhoc agendum fore; cuius doctrina eidem fundamentis habetur ac superior, tamque tenet Azor 1a p. in tit. [illegible]
lib. 11. cap. 18. q. 10. = 3a erat sententia est, quae asserit eum qui semel habuit commutationem voti, quamvis culpa sua omm[ittat]
materiam, in quam commutatus est, nullatenus teneri ad priorem voti materiam ut castitatis, vel religionis; quae sententia
ex sequenti ratione fulcitur; nam per commutationem votum eo modo extinguitur circa priorem materiam, adeo ut praedicta obli-
gatio translata sit in materiam subrogatam; quam sententiam defendunt Caietanus 2a 2ae q. 88 art. 10 notabili 2
Vivaldus in Candelabro aureo de sacris 3. p. cap. 14. n. 27. = Ex quibus omnibus deducitur materiam pri-
mam [illegible] ab ipso vovente ad primum votum redire, tametsi commutatio facta fuit ad implere; cuius doctri-
na considerari potest, nam commutatio fit sub illa tacita conditione, ut liberum sit voventi materiam subrogatam exequi, aut in
cuius loco aliam [illegible] subrogata est; nam commutatio fit in favorem et gratiam voventis, ut ipsius utilitati [illegible]
itaque intelligitur facta sub conditione, ut integrum sit voventi posse utramque materiam eligere, alioquin [illegible]
[illegible] sabire [illegible] Odium interveniendi [illegible]
a [illegible] relatis defendit [illegible] Thomas Sanchez [illegible] alias rationes adducit, quibus ipsa [illegible] =

n. 53.

[illegible] ex dictis inferes [illegible] controversiae [illegible] Bullae Cruciatae
aliquem [illegible] commutari vota religionis, castitatis, quae [illegible] utque [illegible] affirmativa, et nega-
[illegible] expedit [illegible] utraque [illegible] clausula Bullae Cruciatae sic habet [illegible]
[illegible] ab ordinario [illegible] quibuscumque peccatis, et censuris absolutionem recipere [illegible]
[illegible] castitatis, et religionis dumtaxat exceptis [illegible] subsidii huius expeditionis [illegible] commutari possit [illegible]
[illegible] plenissimam [illegible] commutat [illegible] habet [illegible]
[illegible] eligere [illegible] licite [illegible] et criminibus [illegible]
[illegible] castitatis, et religionis exceptis dumtaxat [illegible] commutare [illegible]
itaque [illegible] clausula Bullae [illegible] castitatis, et religionis
[illegible] commutatio [illegible] religionis [illegible]
[illegible] potest [illegible] subsidii [illegible] affirmant [illegible]
[illegible] Emmanuele Rodriguez in Bulla Cruciatae § 9 [illegible]
[illegible] Bullae [illegible] subsidii [illegible]
[illegible] Bullae [illegible] subsidii huius expeditionis [illegible]
[illegible] Vivaldus [illegible]
[illegible] ab Azor [illegible] lib. 11 [illegible] moral. c. 18. q. 9. [illegible] Thomas Sanchez [illegible] de matrimonio [illegible]

n. 54.

[illegible] debent intelligi [illegible] de votis [illegible]
in [illegible] remanent. Videamus nunc [illegible] de religiosis votis [illegible] qui possint ea commutare, et quibus commutare [illegible]
[illegible] doctrina est, superiores voventis quales sunt Provinciales, aut Generales recte posse in votis [illegible]
[illegible] religionis [illegible] castitatis [illegible] votis [illegible] itaque omnino [illegible]
subditos superiori illius monasterii [illegible] Pauli V [illegible] potest commutare [illegible] votum [illegible]
servatis; ut constat [illegible]
[illegible] Provinciales mendicantium posse [illegible]
[illegible] qui ante matrimonii castitatem voverant [illegible]
de matrimonio [illegible] Sanchez lib. 8. de matrimonio [illegible] n. 27. [illegible]
[illegible] Azor 1a p. instit. moral. lib. 11. c. 19. q. 10. [illegible] = Similiter religiosi mendicantes [illegible]
[illegible] ab ordinario [illegible]
[illegible] quamvis [illegible] Julio [illegible] Benedictinis [illegible]
[illegible] privilegiis [illegible] Sanchez [illegible] = Denique [illegible]
[illegible] privilegiis [illegible] commutare [illegible]
[illegible] Emmanuelis Rodriguez [illegible]. Cuius [illegible] tenet Thomas Sanchez [illegible] 6. n. 9. =

n. 55.

[illegible] facultas [illegible] privilegia commutandi [illegible]
[illegible] facultas [illegible] religiosis [illegible]
[illegible] commutare [illegible]
[illegible] privilegiis mendicantium [illegible]
[illegible] q. 9. n. 12. [illegible] privilegiis [illegible]
facultas [illegible]
[illegible]

Ad prim[um] ut [illegible] ver[illegible] [illegible] audire [illegible] qui possint eorum vota commutare, ac [illegible] quamvis [illegible] verior[is] tenet Thomas Sanchez [illegible] n. 10. qui satis facit [illegible] Dicens illos [illegible] factos [illegible] religiosos [illegible] ut [illegible] possint commutare [illegible] vota [illegible] Summo Pontifici reservata [illegible] = Altera difficultas [illegible] Religiosi [illegible] mutand[i] vota [illegible] quam [illegible] affirmativa, altera negativa [illegible] hoc, religiosos [illegible] vota [illegible] commutare [illegible] [illegible] Paulo [illegible] hanc commutandi [illegible] et absoluendi a reservatis [illegible] confessionibus diligenter auditis, ut iam [illegible] Decid[illegible] in l. a testatore ff. de condit. et demonstrat. = Affirmativa [illegible] hoc [illegible] talia vota commutare [illegible] religiosos [illegible] habent [illegible] tenent plures relati [illegible] a Sanchez [illegible] n. 31. Cui [illegible] Vota commutare [illegible] privilegium limitare. Ex [illegible] posterioris verioris [illegible] [illegible] confessionibus diligenter auditis debet referri ad absolutam peccati [illegible] commutare ad id privilegium habent [illegible] ut [illegible] probatum est. =

n. 56

[illegible] de habentibus potestatem commutandi vota [illegible]

Ut expleamus [illegible] ad dispensandum [illegible] quaestione generali [illegible] plenius [illegible] examinandum [illegible] Primam dispensationem [illegible] in voto, vel [illegible] Supremi [illegible] Pontificis [illegible] Valeat [illegible] ut [illegible] dispensare [illegible] examinare [illegible] plene ac plane examinans, et explicans videndus Thomas Sanchez [illegible] pluribus aliis ab [illegible] relatis. Quare [illegible] dispensandi, commutandi, et absoluendi obligationis voti [illegible] dispensantis commutantis et absoluentis [illegible] dispensati conscientia [illegible] cap. magnae [illegible] et ex multis [illegible] Silvester [illegible] Armilla [illegible] dispensatio [illegible] Clementinis [illegible] Alensis [illegible] casu 21. [illegible] Soses [illegible] 7. [illegible] Cum [illegible] antiquioribus ab [illegible] relatis. =

n. 57

[illegible] commutando voto [illegible] Synodi [illegible] commutando voto [illegible] Archiepiscopi dispensatio [illegible] Provincialis facta [illegible] valeat [illegible] duabus difficultatibus [illegible] videndi [illegible] Hostiensis [illegible] Joannes Andreas [illegible] Navarrus [illegible] Emanuel Rodriguez [illegible] cap. 237 [illegible] instit. moral. cap. [illegible] [illegible] examinans, Thomas Sanchez [illegible] de matrim. disp. 7. n. 32. [illegible] =

n. 58

[illegible] triplici [illegible]

ut commutatio voti fiat, verius tamen est plures [illegible] commutatio [illegible] [illegible] voti [illegible] [illegible] valeat [illegible] explicata sunt [illegible] tractatu [illegible] Thomas [illegible] Navarrus in manuali [illegible] quos [illegible] moral. cap. [illegible] commutatio fiat [illegible] Thomas Sanchez [illegible] de matrim. [illegible] =

n. 59

[illegible] commutando [illegible]

[illegible] aliquid [illegible] adimplere [illegible] commutatio [illegible] Doctrina [illegible] [illegible] Vices Dei gerentes, qui [illegible] Emanuel Rodriguez [illegible] § 9. n. 106. [illegible]

[illegible] q. [illegible] n. 23. Navarro [illegible] cap. 12. n. 70. Schmalz. [illegible] q. 7. ar. 3. [illegible] 6. [illegible] 11. [illegible] moral. cap. 29. q. 27. [illegible] relato à Thoma Sanchez [illegible] citato =

n. 60.

Si commutandi votum [illegible] bonum publicum [illegible] ex [illegible] Vovens, [illegible] communiter [illegible], [illegible] fortasse tale votum adimpleret, [illegible] votum [illegible] Vovens [illegible] faciendi, et [illegible] castitatis [illegible] religionis [illegible] ad [illegible] reipublicae pacem, ut uxorem ducat est; nam tunc [illegible] boni communis, [illegible] bonum [illegible] Vovens, [illegible] Vovens religiosus [illegible] approba[illegible], [illegible] vota, quae [illegible] sunt nec [illegible] [illegible] religionis [illegible] [illegible] [illegible] [illegible] [illegible] dicto votum [illegible] q. 4. ar. 3. col. 3. [illegible] Navarro [illegible] ipse Thomas Sanchez [illegible] =

n. 61.

[illegible] quam commutatio voti fieri potest [illegible] Vovens, [illegible] examine facilius [illegible] et [illegible] ac matura deliberatione [illegible] obligans [illegible] Vovens [illegible] evidenter, ac natura [illegible] religionis [illegible] castitatis ut [illegible] [illegible] ipsum votum, [illegible] facilius [illegible] [illegible] tradunt Silvester verbo votum 2. q. 15. Paludanus [illegible] ar. 2. n. 9. [illegible] Navarro [illegible] 12. n. 26. [illegible] q. 5. ar. 2. col. 3. [illegible] tamen, [illegible] 11. [illegible] moral. cap. 11. q. 5. [illegible] plures [illegible] Ex [illegible] [illegible] nostri tract. explicavimus, hic [illegible] libenter [illegible] =

n. 62.

[illegible] sufficiens ad commutationem [illegible] ex [illegible] Vovens [illegible] periculo [illegible] quaerendi votum, [illegible] [illegible] difficilius [illegible] votum, ut [illegible] habeat votum castitatis [illegible] sufficiens ad [illegible] commutandum [illegible] votum [illegible] posset [illegible] [illegible] quando illa mutatio [illegible] [illegible] ita tradit eleganter Thomas Sanchez [illegible] ex Theologis [illegible] commentatores [illegible] exornavimus =

n. 63.

Sexta [illegible] exp. [illegible] [illegible] nam [illegible] votum [illegible] [illegible] [illegible] [illegible] ita [illegible] Thomas 2. 2. q. 88. ar. 9. [illegible] Nav. [illegible] votum [illegible] q. [illegible] moral. cap. 29. q. 17. [illegible] =

n. ultimo

[illegible] ad [illegible] commutatio votorum fieri [illegible] tamen videndi sunt Divus Thomas [illegible] q. 88. ar. 9. ad [illegible] Paludanus [illegible] n. 9. [illegible] Navarro [illegible] cap. 12. n. 70 [illegible] [illegible] q. 4. ar. 3. [illegible] 6. [illegible] Silvester verbo votum 2. q. 15. [illegible] omnes fere Summistae [illegible] Thomas Sanchez [illegible] cap. [illegible] Thomas Sanchez [illegible] Bellarminus [illegible] cap. 14. [illegible] Suarez [illegible] cap. [illegible] moral. [illegible] cap. [illegible] plures, quos [illegible] [illegible] [illegible] eleganter, et erudite [illegible] [illegible] [illegible] Utinam [illegible] Laus omnipotenti Deo [illegible] Mariae [illegible] [illegible] nec non [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] volumen [illegible]

= Deo Servet =

= Finis =

Ad Cap. Cum ad monasterium. 6
de statu monachor.

[illegible]

lib. 3. tit. 35

[illegible]

[illegible] decre [illegible]

[illegible] ... Romana [illegible] oraculis et canonum comprobationibus [illegible] ...

[illegible] ... Romano Pontifici [illegible] ... maxime proprium habere [illegible] ...

[illegible]

[illegible] exiliret libere monachus [illegible] habendo [illegible] cum aliis in monasterio dispensare [illegible] promissis [illegible] et custodia castitatis [illegible] neque a mora [illegible] quae damnis [illegible] veniam indulgere =

[illegible] casu [illegible] conclusio deducitur solvit [illegible] cum monacho dispensare non valet [illegible] licet [illegible] habere [illegible] cum [illegible] votis professionis [illegible]. confirmatur ex concilio lateranensi [illegible] sub Alexandro 3. [illegible] [illegible] in cap. [illegible] et ex cap. [illegible] [illegible] cap. [illegible] non dicatur [illegible] concilium Tridentinum sess. 25 de regularibus cap. [illegible]. corroborant praeterea ordinarii [illegible] cum aliis relatis in collectaneis ad [illegible] collectanea [illegible] Barbosa in [illegible] Tridentinum in dicta sess. 25 de regularibus dicto cap. [illegible] [illegible] [illegible] cap. 6. q. 4. [illegible] de [illegible] [illegible] cap. [illegible] dispute [illegible] n. [illegible] Sanchez [illegible] [illegible] [illegible] Thomas Sanchez [illegible] 5 de [illegible] n. 14. et [illegible] tomo 2. in tractatu de [illegible] n. [illegible] probabit [illegible] eadem ex ratione [illegible] essentia redditur actus nullus [illegible] de [illegible] apostatis [illegible] de [illegible] cap. de [illegible] [illegible] hoc voluerunt de [illegible] religiosis ut [illegible] sequitur exinde [illegible] de [illegible] professionis [illegible] reddi = [illegible] licet [illegible] verissima [illegible] redditur ex eo [illegible] in religione [illegible] exinde [illegible] conditio professionis [illegible] licitus [illegible] professio [illegible] [illegible] professione [illegible] in dicto cap. [illegible] ordin. [illegible]

2º obstat [illegible] quamvis [illegible] 3º [illegible] probata [illegible] si [illegible] aut vir monastico vitae elegerit [illegible] ingrediatur monasterium monasterio [illegible] ingrediatur [illegible] convenit [illegible] si vero [illegible] ante quam de [illegible] inter eos [illegible] et ante quam [illegible] filiis [illegible] portiones [illegible] monasterium [illegible] licat [illegible] postea inter eos [illegible] legitimas portiones [illegible] ipsius [illegible] dominus [illegible] de ipsius dispositione [illegible]

[illegible] professionis [illegible] est professio [illegible] est de essentia religionis [illegible] habere [illegible] in cap. [illegible] volentes matrimonium contrahere [illegible] professionis [illegible] domo cum omni substantia propria [illegible] professione = 3º [illegible] concilii generalis Romae celebrati anno 1139 cap. [illegible] sanctiones ecclesiasticas [illegible] ante illud con[illegible] ex verbis [illegible] praeceptis [illegible] vero [illegible] ex concilio Romano [illegible] celebratum fuit anno 1139 [illegible] sub Urbano 2º [illegible] anno [illegible] Romanum [illegible] ex [illegible] cap. [illegible] sanctiones ecclesiasticas [illegible] validus fuerit [illegible] alias [illegible] sanctitatis =

[illegible] et alii [illegible] procul dubio est [illegible] de [illegible] decisiones [illegible] interpretationes [illegible] ante quam ad [illegible] Lucemanus [illegible] religionis [illegible] tria vota requiri [illegible] paupertatis castitatis et obedientiae est [illegible] sufficit [illegible] conveniunt [illegible] habeant [illegible] perfecte [illegible] vota [illegible] erant [illegible] voto [illegible] Domino est [illegible] religiosos [illegible] deinde ad perfectionem religionis requirit [illegible] voto perpetuo [illegible] ad haec tria requirantur probatur [illegible]

est forma quaedam vitae seu obligatio ad imitationem Christi
et ad perfectionem charitatis sed haec tria eorum vitae requi-
runtur ad imitandum Christum et conservandam charitatem
[illegible] de cuius [illegible] minor probatur ac [illegible]
quod paupertas ad hoc sit maxime conveniens constat
ex illo Matthaei 19 si vis perfectus esse vade et ven-
de omnia quae habes et da pauperibus et habebis the-
saurum in caelo et infra amen dico vobis quod
vos qui reliquistis omnia et secuti estis me centu-
plum accipietis et vitam aeternam possidebitis et constat
ex Matthaei cap. 8. et Lucae cap. 9 quod Christus maxime
paupertatem dilexit [illegible] vulpes foveas habent et volucres
caeli nidos filius autem hominis non habet ubi caput
suum reclinet quod castitas sit necessaria patet ex
Matthaei 19 de obedientia patet ex Matthaei cap. 16.
ex quibus locis [sacrae scripturae] evidenter apparet tria vota necessaria esse
ad perfectionem vitam consequendam [illegible]
~~[illegible] ad illam celebrandam quae [illegible]~~
~~votum paupertatis in religione~~ proveniat a iure divino
~~an [illegible]~~ [praesertim] votum paupertatis essen-
tialiter requiri in professione tali modo ut si non inter-
veniat nullus [illegible]
[illegible] contra quod videtur obstare
textus in authentica de sanctissimis episcopis collatione 9. § si
qua mulier [illegible] probatur quod [illegible] ingrediatur religionem
nullis filiis relictis [illegible] non facto hereditatem
monasterio adquirit at vero si filios reliquerit hoc
casu [illegible] quod debet inter filios [illegible] dividere
igitur evidenter apparet quod religiosus est capax proprie-
tatis et per consequens quod non est contra ius divinum
per quod fundamentum Bartolus Baldus et Salicetus
in dicta authentica si qua mulier [illegible] in loco citato
Baldus [illegible] cap. [illegible] ~~[illegible]~~

[illegible] in Authentica Ingressi C. de sacrosanctis ecclesiis quae transcripta [illegible] Authentica de Monachis § illud [illegible] debet intelligi de [illegible] qui vere religionem professus [illegible] et Gilmann [illegible] professionem [illegible] amittit [illegible] proprium [illegible]

matrimonium contraherent non vero nullitatem quod evidenter apparet ex concilio Romano quod celebratum fuit Calisto 2° summo Pontifice anno christi 1123 quod fuit vero [illegible] annis celebratum ante predictum concilium Romanum quo preceptum fuit monachorum matrimonia separanda esse. igitur apparet evidenter validum fuisse matrimonium. neque aliquis concilium non diceret separate matrimonium quod contractum est nullum quoniam non matrimonium. non potest confirmari hanc sententiam concilium Eliberitanum Iobiano imperatore antiquius canone 13. concilium Cartaginense 4um. sub Siricio anno christi 390 canone 13. Toletanum 1um. sub Anastasio anno domini 400 canone 16. Veneticum concilium sub Leone 1°. anno 451 canone 1. Turonicum 1° tempore Ylarij Papae anno christi 461 canone [illegible] Aurelianense 1um. sub Simaco anno 519 canone 21. Calcedonense concilium anno domini 451 quod refertur a Graciano in cap. si quis virgo [illegible] et in [illegible] ex cap. quod [illegible] cap. virgines [illegible] ex quibus omnibus apparet matrimonia a monachis contracta separanda non esse licet [illegible] penitentia = probatur etiam haec sententia ex eo neque monachorum matrimonium non est nullum nisi voto [illegible] aliquo [illegible] simplex votum dirimeret matrimonium quod non potest concedi [illegible] in cap. [illegible] cap. meminimus a clericis [illegible] matrimonium contrahere non [illegible] haec [illegible] ex iure positivo [illegible] prohibitio [illegible] matrimonium inter monachos a iure positivo provenit [illegible] ex [illegible] in cap. [illegible] de voto et voti redemptione [illegible] probatur solemnitatem voti solemnis a iure positivo dimanare quod ante concilium Romanum quod celebratum fuit sub [illegible] 2. anno 1139 validum erat matrimonium contractum inter monachos et per consequens non potest defendi contra [illegible] religionis [illegible] non observare votum castitatis quod [illegible]

Concilium Romanum

Romanum

[illegible]

[illegible]

[illegible]

Aurelianense

Calcedonense

ap. [illegible] [illegible] voto [illegible]

cap [illegible] cap. [illegible] cum [illegible] convenerit ad [illegible] cap. [illegible] [illegible]

Celebratum fuit anno dni. [illegible] obbase Vbaldonum Haereticos qui pauperes de Lugduno vocabantur

[illegible] [illegible] [illegible] [illegible] [illegible] 1°. ex [illegible]

probabilis est probabilior mihi videtur sententia 1a relata quae etiam probatur ex [illegible] expressis quae meo videri pro contraria sententia satisfieri non potest praecipue sunt [illegible]. in cap. [illegible] cap. pervenit ad nos cap. si quis sacro cap. si quis monachus cap. si qui [illegible] cap. omnes feminae cap. et [illegible] quae [illegible] probatur nubentes post vota monastica separari et ad monasterium revocari atque [illegible] fuerunt statuta ante Innocentium 3um et evidenter apparet ante ipsius tempus matrimonia fuisse nulla = quia sententia retenta non obstant [illegible] fundamenta pro contraria sententia adducta nam respondendum est quod licet ibidem prohibeatur sub gravissimis poenis matrimonium contrahi a monachis non exinde sequitur quod a iure positivo eius prohibitio proveniat neque multoties [illegible] prohibetur a iure quod alias a iure naturali prohibetur et veluti furtum et caetera delicta quorum prohibitio iure naturali dependet = neque etiam obstat [illegible] in cap. unico de voto et voti redemptione nam ibidem non probatur [illegible] substantialiter a iure positivo provenire sed tantum modo accidentaliter hoc est modum quo fieri debeat solemnitas inhabilitando personas aliter profitentes in religione. Ut infertur ante concilium Lateranense quod fuit sub [illegible] cap. ne nimia de religiosis domibus quod decretum renovatum fuit [illegible] in concilio Lugdunensi [illegible] ut ante hanc solemnitatem licitum erat et [illegible] praecipiebatur profiteri [illegible] coram [illegible] cap. [illegible] 20 q. 1a =

Ut [illegible] retenta sententia quod votum solemne religionis dirimit matrimonium ex iure divino dubium est an [illegible] dispensari valeat et monachus matrimonium contrahere valeat qua in quaestione ait S. Th. [illegible] dist. 38 art. 4. [illegible] ad 3um [illegible] 1°. ex [illegible] nam abdicatio proprietatis et custodia castitatis [illegible].

~~[illegible] [illegible] [illegible] [illegible]~~
~~[illegible] et [illegible] [illegible] [illegible]~~
~~[illegible] [illegible] [illegible]~~

nos[illegible] [illegible] in dicta authentica De sanctissimis [illegible]
collatione 9 § si qua mulier nam respondendum est [illegible]
Imperatorem non loqui de religioso professo sed de
novitio ut patet ex verbis illius textus ex quo apparet
secundum hanc professionem ... idem imperator ait
quod in mulieribus vel [illegible] si filios habeat tenea-
tur inter eos bona sua dividere quae senium defendunt
[illegible] in dicta authentica si qua mulier n° 4. et [illegible]
in lege si quis heredem C. de instit. et subst. =
ad hanc interpretationem [illegible] nam si imperator ibidem
de non professo loqueretur [illegible], exinde quod non diceret
legitimas monasterio teneri relinquere at cum dicat quod
teneri ei portionem relinquere [illegible] professus
erat [illegible] dicendum existimo predictum textum ex defectu
potestatis corruere nam cum imperator disponere non va-
leat de rebus ecclesiasticis ideo predicta constitutio nulla
est = contra [illegible] in casu si qua
mulier [illegible] ibidem [illegible] etiam de iure
canonico [illegible] esse observandum [illegible] dicendum est [illegible]
[illegible] a Graciano [illegible] potestatis [illegible]
condendi non habebat quae [illegible] multa dura
decreto [illegible] in c. omnes cap. [illegible]
[illegible] probare [illegible] velle de
rebus ecclesiasticis cognoscere quae [illegible] fuerunt [illegible]
[illegible] omnes [illegible] de [illegible] et clericis =
2 infertur [illegible] solemni professioni [illegible] ex iure [illegible]
[illegible] secundo [illegible] ecclesiastico
[illegible] [illegible] [illegible] [illegible] traditio
traditionem [illegible] alij nam nemo potest in alium
transferre quod ipse [illegible] nemo potest [illegible]

a nobis aliena traditio

cap. vid ante — de sed. qa monachus id eum in profes-
sione tradat qs perfectissime corpus suu in alienu ideo
invalide potuit se tradere in matrimu. probatur
etiq ex cap. si qs sacro & si quis sacris cap. de [illegible]
27 q. 1a. ubi dicitur contrahentes matrimu. separan-
dos esse non solu auctoritate ecclesiastica sed etiam
auctoritate divina. probatur etiq ex concilio Tridentino
sess. 24 canone 9. ubi dicitur quod si qs dixerit clericos in sacris
vel religione professos matrimu. contrahere posse non
obstante lege ecclesiastica et voto anathema sit
ex cuius ca. patet apparet quod si matrimu. iure natu-
divino nullus non esset quod concilius non diceret illo ver-
bo voto solemni affirmaverat tale matrimu.
iure ecclesiastico dirimi nam aliis esset superfluum illud
verbum votum [illegible] de iure divino non [illegible] qua-
sententia tenentur S. Th. in 4 dist. 38 q. 1 art. 3. Sotus
lib. 7 de iusti. et iure q. 2 art. 5 columna [illegible] sed intro-
[illegible] lib. 12 de matrio. cap. 5 n. 2 in fine
[illegible] decima de matrio q. 5 art. 2 dubio [illegible]
[illegible] dubio 33 de matri.
[illegible] Conin. in 4 decretalium [illegible] cap. § 4 n. 7
Carrerus lib. 3 de monachis cap. 6 in fine
contrariam sententiam scilicet solo iure ecclesiastico professionem
religionis matrimu. dirimere defendunt Thomas San-
chez lib. 7 de matrio disputa. 26 Basilius lib.
de matri. cap. 4 n. 4. Azor. lib. 12 institu-
tionum moralium cap. 6. q. 6. [illegible] sententia in pri-
mis facit concilium Romanum celebratum sub Innocentio
2o. anno 1139 cap. 7 § et ex [illegible]
ut si monachus contrahat matrimu. contra ecclesiasti-
cas leges ubi evidenter apparet in eo concilio [illegible]
annullari matrimu. inter monachos iure ecclesiastico nam
licet antea illud tempus prohiberetur monachis et

de hoc non erat lex praeceptiva sed permissiva [illegible]

[illegible] est et[illegible] in lege [illegible]

[illegible] votum [illegible] dominio[illegible]

[illegible]

[illegible]

[illegible] ex [illegible] [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] in [illegible] aut [illegible]

[illegible] Deo prius [illegible] est [illegible]

[illegible] et [illegible] est

[illegible] contra [illegible]

[illegible] ad [illegible]

[illegible] dispensare in voto solemni religionis [illegible]

[illegible]

[illegible]

[illegible] in [illegible] Pontifice

[illegible] hoc [illegible]

[illegible]

[illegible] de [illegible]

[illegible] tempore Innocentii [illegible] vovebant [illegible]

[illegible] tempore et multis [illegible]

dispensare [illegible]

[illegible]

[illegible]

[illegible] monachos [illegible] ab obliga[illegible]

[illegible] votorum [illegible] et honor[illegible]

[illegible] Innocentii [illegible]

[illegible] competeret dispensatio tempore [illegible]

[illegible] relaxare valet defend[illegible]

[illegible]

de concilio [illegible] cap 80 qua [illegible] [illegible] [illegible]
[illegible] [illegible] R.mo [illegible]. recte asserit [illegible] voto re=
ligionis [illegible] monachus valeat contrahere matrimonium re=
manens in eadem religione at vero si de monacho [illegible]
non monachus faciat hoc in casu [illegible] [illegible] [illegible]
religioni [illegible] quae [illegible] dependent [illegible] [illegible]
dicto [illegible] de matrimonio disputatione [illegible] n.o [illegible] 12 Basilius loco
citato [illegible] casus dicto [illegible] 2. cap [illegible] [illegible] [illegible] [illegible]
loco citato — neque obstat quod res sacra velut calix
ad sacros usus conversa non possit quod concedendum est si ne=
cessitas non adsit at vero necessitate urgente poterit res
sacra ad usus profanos servire velut si [illegible] [illegible] venturus
erat si calix ei non praeberetur ad [illegible] licitum erat ei [illegible]
[illegible] [illegible] quod probatur ex [illegible] [illegible] cap 22 [illegible] Dauid
atque eius [illegible] famem [illegible] [illegible] sunt licite panibus propositi=
onis — neque etiam obstat ad [illegible] communi adversa=
riorum communi traditam [illegible] [illegible] [illegible] alij tradi[illegible] hoc
est intelligendum [illegible] non adest necessitas at vero si interve=
[illegible] [illegible] licitum est ut contingit in praescriptione in qua [illegible]
[illegible] boni ad [illegible] [illegible] [illegible] dominium rei [illegible]
[illegible] foro a vero domino ac transfertur in praescribentem —

Non obstat [illegible] fundamentum [illegible] negandum est in eo casu
[illegible] uxores [illegible] monachus [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] religionis ex iure divino dissolvatur quo ad vinculum
[illegible] ex [illegible] de [illegible] [illegible] exinde [illegible] [illegible] si [illegible]
[illegible] a voto postea contraheret matrimonium [illegible] non [illegible]
[illegible] matrimonium [illegible] remanere valet matrimonium = ad [illegible]
respondetur exemplum ad traditum [illegible] ex [illegible] Matheo con=
[illegible] initio nascentis [illegible] [illegible] expediebat religionis christianae
[illegible] relaxari [illegible] quae ad eandem valde pertinent
— neque etiam obstat [illegible] asserit [illegible] = 2.o [illegible]
[illegible] [illegible] [illegible] [illegible] indispensabile [illegible] [illegible]
solemne et [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

et anexa regulæ monachali vt contra eas [illegible] nullus Pontifex dispensare valeat. ex quo [illegible] evidenter apparet Pontificem nullatenus dispensare valere.
= 2º facit pro hac sententia quia ea quæ proveniunt a iure divino immutari non possunt, cum sint fundamentalia, at 3º obligatio voti provenit a iure divino, ergo in eo dispensare non potest = 3º facit quia sicut calix consecratus semper remanet consecratus quandiu res ipsa manet nec potest tolli a Pontifice ipsa consecratio [illegible] iuxta [illegible]. et in isto casu non poterit fieri a Pontifice, vt monachus semel Deo consecratus inserviat ad usus profanos matrimonium contrahendo, = 4º probatur quia res semel Deo dicata amplius ad usus profanos non potest mutari Levitici cap. 27. animal quod quis Deo devovit sanctum erit neque immutari poterit. ergo nec poterit monachus ex dispensatione Pontificis matrimonium contrahere = 5º quia si Pontifex cum religioso posset dispensare sequeretur, exinde quod quis uno eodem tempore posset duas uxores habere, vt si post matrimonium non consummatum unus in religione profiteatur et postea per dispensationem Pontificis exeat a monasterio et aliam uxorem ducat priori adhuc superstite = et tandem probatur ex eo quod Deus Maximus [illegible] noluit dispensare vt [illegible] monachus [illegible] cuidam [illegible] [illegible] et [illegible] successivo [illegible] nec potuit dispensare, quia alias [illegible] videns [illegible] admitteret dispensationem post conversionem ad fidem.

Contrarium tamen sententiam et veriorem tenendo, scilicet Pontificem [illegible]

[illegible]

[illegible] ut ad ~~[illegible]~~ nullius ~~[illegible]~~ [illegible]

[illegible] ratione [illegible] ut nova [illegible]

mulieris et viri inter [illegible] [illegible]

[illegible] et uxorem [illegible] [illegible]

[illegible]

[illegible]

[illegible] haberet [illegible]

[illegible]

[illegible] apparet [illegible]

[illegible] dispensare [illegible]

[illegible]

[illegible] in [illegible]

[illegible] auctoritate et obedientia [illegible]

[illegible]

[illegible] ex tacita voluntate [illegible]

superioris [illegible]

[illegible] casu licet [illegible] in lege divina dispensare

[illegible]

[illegible]

[illegible] obligatio [illegible]

[illegible] potest dispensare. Respondendum

est [illegible] differentiam [illegible] in divinis aliud est quod

[illegible] licitum [illegible] aliud [illegible] et expe-

diens quod in divinis aliud dicitur [illegible] et expediens [illegible]

[illegible] divino aut naturali de permissione quod licitum est [illegible] casu in-

telligendus est [illegible] in casibus [illegible]

[illegible] non liceret [illegible]

[illegible] alienis [illegible] permissio

[illegible]

[illegible]

[illegible]

[illegible]

sentientes cum meo videri sensus Quid ... est si vel
Pontifex ... posse dispensare in medicato voto nam non
est credendum ... sensus ... retractum ... in ... q. sensu
ipse ... asserit Pont. hoc dispensare posse ... Sent.
Quid ... intelligenda est ... distantis nobis ... tradit
... non posset dispensare cum monacho remanente
in religione ... de monacho ... monachus
... et ... Pont. ...
... asseverant ... Pontifex dispensare cum
monachus ... religione ... matrimonium contraheret
... ex qua ...
... quatenus videat
... posse Pontifex dispensare ut monachus ...
... in ... eo casu quo ... conveniens
... vel ... proprietatis aut ... retinet quo casu
... repugnat ... religionis ... potest dispensare
... at vero si dominus remaneat penes superiorem et ipse tan=
tum modo utatur ... superioris hoc est proo
tum modo ... retentio ... ipse ...
tempora quo ... vult retentio ...
... dicto ... cap. q.
nihil ... in institutionis moralis cap. 9.
n.º ... thomo 1. ... hoc ... Tridentinum
... nec ... contra hoc ... distantis ... tra=
... cap. ... intelligendus est ... Barbosa ...
... in hoc nihil ... ut ait Barbosa ...

A ... De ... cum ad monasterium
... que toca a la propiedad es con la
resolucion ... de ... texto ...
el cap. ... monentes ...
... cap. si ... voluntatis ...
concilio Tridentino ... votis ...
solemne ... voto ...
... cap. ... de voto ...
... carac ... tra ...
... 23.

[illegible]

[illegible] 25 [illegible] lib. 3. tit. 38.

[illegible]

[illegible] Carthag. [illegible] Scheda: 45.

[illegible]

Clemens 3[us] in cap. nobis de iure patronatus [illegible] ubi nobis fuit [illegible] de triplici [illegible] triplex [illegible] ex constructione ecclesiae [illegible] igitur in initio dubitatum fuit quid ad acquisitionem iuris patronatus requireretur [illegible] construendo ecclesiam [illegible] ius patronatus [illegible] iure patronatus [illegible] acquiri. = [illegible] Denique [illegible] fundatio patrono concedit, et facilius [illegible] electioni tractantur [illegible] Clemens 3[us] [illegible] triplici [illegible] capite decrevit [illegible] aedificantes ecclesiam [illegible] Clemens [illegible] probatur ex [illegible] patronatus acquirere. [illegible] doctrina probatur ex cap. [illegible] c. praeterea [illegible] c. placuit [illegible] c. Eleutherius [illegible] de privilegiis [illegible] Lambertinus lib. 1. de iure patronatus [illegible] Flaminius Parisius de resignat. [illegible] Menochius [illegible] Balbus in cap. quanto 3. de iudiciis n. 6. [illegible] referendis.

Dubitandi ratio movebat sequens consideratio [illegible] patronatus [illegible] construendo ecclesiam [illegible] acquirat [illegible] c. decernimus c. monasterium 16 q. 7. [illegible] patronatus acquirit. Augetur dubitandi ratio ex eo [illegible] spiritualibus habeat [illegible] decreta [illegible] c. decernimus [illegible] per ipsum fieri posse ut patronus si laicus est aliquid iuris in spiritualibus [illegible] cap. quanto [illegible] de iudiciis [illegible] Vulgatus, cum quod ius patronatus annexum sit spiritualibus [illegible] iuris patronatus acquireret [illegible] laici [illegible]

Quae dubitandi ratio [illegible] Clemens [illegible] patrono [illegible] Vergus

decisionis [illegible] in patronatus [illegible] Calepino Verbo patronus et solet patronus generaliter in iure sumptus a verbo pater derivari ita docentibus [illegible] patronus dat esse et substantiam [illegible] de verbis iuris [illegible] quemadmodum pater dat esse filio et substantiam ita et patronus [illegible] manumissus [illegible] patroni [illegible] illi [illegible] patronus dicitur. Ut docet Lambertinus d. q. 1a art. 1. n. 8. Unde servus manumissus [illegible] de adimendis legatis et [illegible] Libertate erigitur et nobis homo appellatur [illegible] 27 § [illegible] de verborum obligationibus, unde licet patronus multis [illegible] accipiatur [illegible] [illegible] 83. § sacris ff. de verbor. obligationibus, unde licet patronus multis [illegible] in cap. dilecta de excessibus praelatorum, et in cap. quemadmodum § illud de iure iurando tradit Lambertinus d. q. 1a n. 2 et 3[o] proprie [illegible] patronus ille dicitur qui causam alterius defendit et pro defensione [illegible] [illegible] Ut constat ex Cicerone Lib. de amicitia ibi [illegible] patronus [illegible] fuit et [illegible] [illegible] patronus [illegible] Unde cum patronus ecclesiae [illegible] defendere debeat ex [illegible] [illegible] Senatus propugnator [illegible] et patronus [illegible] 1697. Sylvester, Verbo. Ius patronus dictus est. sic [illegible] multoties advocatus appellatur. ind. cap. [illegible] patronatus quoque patronus sic sumptus [illegible] consideratur, aut civiliter, aut canonice [illegible] iure civile attenditur ius patronatus [illegible] potestatis a iure civili concessa in personam liberti ad obedientiam illi praestan[dam] [illegible] propter beneficium manumissionis, ut colligitur ex [illegible] 1a et 2 ff. de iure patronatus, etiam ex manumissione desinunt esse servi, et propterea statum libertatis assumunt [illegible] in cap. man[umissiones] [illegible] ff. de iustitia et iure, inspecto [illegible] iure gentium qui manumittuntur [illegible] pro tanto [illegible] sunt adstricti, ut plenam libertatem [illegible] comparare [illegible] Unde sic manumissi liberti solent appellari ad discrimen liberorum qui ingenui nuncupantur [illegible] insta. de libertinis [illegible] debent patronis [illegible] liberis et liberis patronis et parentibus [illegible] praestandis et [illegible] de operis libertorum, et de bonis libertorum [illegible] [illegible] a inter

[illegible] ius patronatus [illegible] ut extrahitur ab Archidiacono ind. cap. [illegible] 1697. n. [illegible] et ab Innocentio [illegible] n. 2. [illegible] ius presentandi instituendum ad beneficium vacans [illegible] tradit Balenius in presenti § 1. n. 1. [illegible] ad hunc [illegible] ius patronatus triplex est. aliud est ecclesiasticum, aut laicum, aliud mixtum ut distinguit [illegible] [illegible] officio ordinarii cap. [illegible] cap. praeterea de iure patronatus cap. 1. § 1. [illegible] Ius patronatus ecclesiasticum est quod competit clerico, ecclesiae, aut alicui dignitati [illegible] collegio clericorum ex fundatione, dotatione, aut constructione cap. 1. de iure patronatus Lib. 6. Ius patronatus laicum est illud quod laicis [illegible] ex fundatione suis bonis facta, ius vero patronatus mixtum illud nuncupatur quod [illegible] laicorum simul et clericorum [illegible] Docet Balbus in cap. quanto 3. de iudiciis n. 6. [illegible] patronatus ecclesiasticum [illegible] a seculari [illegible] patronus ecclesiasticus habet semestre ad presentandum, laicus vero quadrimestre tantum cap. [illegible] simul sint patroni eccles. [illegible] et laici omnes ratione communionis habent semestre, ut docet glossa ind. cap. cum te.

Hinc patroni ecclesiastici si alium idoneum presentauerint, alium intra tempus, non potest, ... quod sed facto fecerit, nihilominus prior tempore preferetur, tamquam potior iure iuxta textum in cap. quod potius de reg. iuris lib. 6°, Laicus vero semel presentatus, ante plures potest, ad hunc intra tempus, quoties quamquam voluerit alium presentare, hinc est quod concedatur patrono ecclesiastici semestre. Plures alias differentias retulit Lambertinus loco superius citato, quod ius patronatus patronis concessum est ... benevolentia pontificum et iuris ecclesiastici deuenit, ... quod auctoritate episcopi ecclesias fundat, ... ut semper adquirant etiam nulla de eo facta mentione, dummodo tamen eo expresse non renuntient, ... Lambertinus ubi supra, Greg. Lopez ind. L. 1a tit. 15 partita 1a glossa 6a et Balbo ind. cap. ... de iudiciis n° 6°. Cuius concessio antiquissima in ecclesia fuit, et de eius initio non apparet ... quod institutum non solum ingratis patronorum obgratitudinis ipsis debitam immunem ecclesiis causa, ut ... ex Concil. Arausicano ... relato in cap. 1° 16. q. ... ut videlicet fideles alliciantur ad fundandas

[margin: Episcopis] ecclesias, templa et beneficia, quia per ius patronatus episcopis auferatur plena dispositio quod iure communi in beneficiis habent, cap. de monachis et religiosis domibus solent quod variis ex causis patronatus ... adquirere, videlicet ex dotatione, constructione et aliis quamplurimis de causis quas eleganter docet Lambertinus ubi sup.a

Quibus sic statutis apparet ... verissimum esse clementis ... quod sola ex constructione ... episcopi consensu interueniente adquiri ius patronatus ... est ... quoniam hunc ecclesiae ... ut ... fideles ad fundandas et dotandas ecclesias moueantur ... et ... non immerito ac ... in honorem Dei et eius ecclesiarum ... dubitandi ratio superius adducta non obstat, nec etsi ... ad adquisitionem iuris patronatus simul fundare, dotare et construere sit necessarium ... simul fundet alter, construat ut docet Greg. Lopez ind. L. 1 tit. 15 partita 1 glossa 3 ... et ... sola constructione ecclesiae episcopi auctoritate facta ius patronatus adquiri ut ... docet ... in contrarium adducta ... de ecclesia consecranda ... debet, ut docet Lambertinus loco superius citato ... quod ... aperte ... est in Concilio Tridentino sess. 25 de reformatione cap. 9° ubi ... constructione, ex dotatione et fundatione ius patronatus adquiri ... aliis quamplurimis modis relatis a Lambertino ubi sup.a

Nec quidquam obstat augmentum dubitandi ... sola ... esse ... spirituali et ... iuris patronatus, tamquam quod ...

nec facile respondetur ... quod etsi ... iuri ... patronis ... ius patronatus ... spiritualibus ... concederetur, tamen equitate inspecta illis conceditur ut alliciantur animum ... ad ecclesias construendas, dotandas, quod ... etsi ius patronatus in ... consideretur ... super eo aliqua questio moueatur, semper ad iudicem ecclesiasticum recurrendum est, tamquam ad iudicem proprium quod de rebus spiritualibus cognoscere ... nec vendi nec permutari ius patronatus

[margin: quoniam ... simoniae ...] potest, cap. ... cap. de iure ... et ... Thomas ... dist. 25 q. 3 art. 2, ubi ... Durandus et Syluester verbo Simonia et Balbo ubi sup.a n° 19.

... considerat ... interpretat. ad ... significauit 41 de ... et ... quod ... proponitur ... species quod nobiles fundarunt ecclesiam Sancti Michaelis Sabinensis diocesis quam ... liberam esse vellent tempore fundationis ... se nihil iuris retinere ... ecclesiae patronatus cum ... facti ... hoc ... testificasse per instrumentum de ... renuntiatione ... a Pontifice ... ut ... praedicta causa ... ut testes reciperet quod ... renuntiat ... inuenientes ... precipit hoc ... negata ... alius ... vellent fundatores ... renuntiatione retrocedere ... priuandi a iure patronatus in ecclesia ... dedicata ... ex constructione ecclesiae cum consensu episcopi

facto, acquiri ius patronatus. Cui difficultati facillime respondendum est, ideo ibi ius
patronatus ipsis denegari quia ipsi expresse renuntiarunt, (ut) certissimum eius est in iure, quem-
quemque proprio iuri posse renuntiare l. si quis in conscribendo C. de pactis, ideo mirum non est
stringenti specie denegatur eis ius patronatus antea acquisitum ex fundatione et constructione ipsius eccle-
siae. Cui solutioni accedit illa ratio quia ibi agitur de libertate ecclesiae a iugo patronorum (et)
facilius debeat esse ad liberandum quam ad ligandum, ut constat ex l. Arrianus ff. de oblig.
et actionibus, ita docet Lambertinus de iure patronatus de lib. 1° q. 2ª — Illud tamen incipio
met [illegible] difficilimum videtur, scilicet iudicis secularis cui cognitio causae commissa fuit cum
ius patronatus sit spiritualibus adnexum, sed omissis plurimis solutionibus, illa vera
atque germana mihi videtur esse solutio, quae docet iudicem de quo ibi ex delegatione Summi Pontificis
potestatem habere cognoscendi de causa iuris patronatus, mirum non est in iure, ut summus Pontifex
sui iuris dicti ecclesiastico iudici concedat, nec sine ratione, ne cognitionis suae causae, non tanquam
iudex ecclesiasticus exercet, sed tanquam delegatus Summi Pontificis, ita docet Curtius in d. cap.

c. dilectus
quae nuntiatur

Significavit 41. de testibus. Cuius integritati [illegible] incongruentia (?) Basilica 10, de consecrat. dist. 1ª
ubi quis basilicam construxit et ex animo eam consecrari voluerat, ut dimidium oblationum partis haberet,
sibique ius patronatus obtineret, quaerit utrum acquirat praedictum ius patronatus ex dicta fundatione
et Nicolaus ius patronatus ei non acquiri ita ut nec aliquam partem ingressus ecclesiae
est. Ait Ex. Nicolaus ius patronatus abiciatur, ratio [illegible] improprium est,
ei concedat Summus Pontifex praedictum ius patronatus, ut aumentum reciperet praedicta ecclesia communi, ut diminueret
neque eam hic non haberet animum ut aumentum reciperet praedicta [illegible] fuit nullus ius patronatus
cum propter [illegible] et [illegible] fuerit [illegible] Pontificia concedentis construentibus et [illegible]
natus ei adquiri [illegible] et [illegible] iura Pontificia concedentis commodis propriis [illegible]
Contra [illegible] ius patronatus debeat intelligi non de [illegible] commodis propriis [illegible] ecclesiae
ecclesiae [illegible] ita interpretatur. [illegible] in summa ecclesiastica [illegible] explicatione

Ad 2ᵘᵐ ut adiciamus [illegible] [illegible] de [illegible] supersedeo. [illegible] explicat [illegible] videndi sunt
[illegible] incongruentia examinata 7. de confirmatione utili [illegible] ad eius explicationem videndi sunt
Lambertinus loco superius citato [illegible] in d. cap. quanto de iudiciis. — Unde tam [illegible]
haberet secunda pars nostri [illegible]. Ubi docet [illegible]. Patronus in ecclesia conventuali electioni
praelati faciendae [illegible] esse, sed tantum iam facta adesse debere, nisi aliter de sua iuris
[illegible] obtineat, quod [illegible] procedere in cappella, ubi eius praesentatio, intervenire debere
ex quo [illegible] illud axioma deducitur — Patronus electioni praelati in ecclesia conventuali
faciendae intervenire non debet, facta vero iam consentire debet, quia [illegible] esse nullius iuris
testimonium comprobat. Antiquiores tamen [illegible] exornarunt. [illegible] nº 4. Et [illegible]
Centius nº 7. [illegible] Curtius de iure patronatus nº 10. Lambertinus [illegible] tractatu 107.
nº 1. — Ad 1° movet dubitandi rationem [illegible] incongruentia quaestio 3. [illegible]
specie [illegible] patronis generaliter ius patronatus concedi [illegible] distinctio [illegible]
Clemens distinctionem statuens inter ecclesias collegiatas et cappellas, quod aumentum [illegible]
laici [illegible] sunt ita ut neque arbitrio nec ex post facto electioni praeesse queant [illegible]
de celebratione [illegible] neque ante neque post patronos [illegible] laicos electioni praeesse posse. [illegible]
dubitandi non obstante asserendum pro [illegible] parte [illegible] est [illegible]
pro eius [illegible] ratione ecclesias conventuales [illegible] esse ac collegiatas ita docent [illegible]
[illegible] de electione lib. 6° [illegible] consuetudine; verbo conventuales ecclesias [illegible]
ad ecclesias religiosorum [illegible] conventuales [illegible] conveniendo, quia ibi conveniunt

Sic collegiata dicitur a colligendo quia colliguntur. Unde ecclesie collegialis seu conventualis illa dicitur que ita instituta est ut essent ibi plures qui privilegia obtineant per eam collegiatam seu conventualem demonstrent iuxta [illegible] 3.a de collegijs illicitis. Unde quia constat designatam [illegible] consensum patroni in electione prelati ecclesie conventualis nam aut ita exigitur ut absque eo irritetur, aut ita ut patronus electione facta, [illegible] [illegible] liberati [illegible] si illi recusaverint seq. [illegible] procedere, [illegible] consensus requiritur ex [illegible] facto, neque huiusmodi consensus, tamquam modi [illegible] et remunerationis beneficij accepti, [illegible] et tale ~~[illegible]~~ obsequium predictum consensus precise non exigat recte [illegible], ut validitas [illegible] permaneat, repugnet aut acceptet patronus quod persuadet etiam dicens [illegible] illud [illegible] de quo infra [illegible]. Unde patet ratio huius decisionis quia [illegible] ne patroni in ecclesijs collegiatis presentarent maxime illis imminerent pericula, [illegible] quod in ecclesijs collegiatis [illegible] ideo summus [illegible]. Varie [illegible] in huiusmodi electionibus [illegible] ecclesie conventualis [illegible] sede Apostolica [illegible] cap. 1. et 2. 22. dist. nonnunquam ipsis capitulis concessum cap. cum terra cap. ingenui et [illegible] de elect. [illegible] cap. cum ecclesia de causa possessionis et proprietatis postea demum quia capitula abutebantur predictis electionibus sedes Apostolica sibi reservavit. Neque obstat dubitandi ratio superius proposita ubi etsi [illegible] [illegible] ex d. cap. ~~[illegible]~~ 3. de iure patronatus ius patronatus adquiri ex constructione ecclesie [illegible] [illegible] [illegible] in ecclesijs collegiatis et conventualibus obtinetur [illegible] vel [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Abbas [illegible].

Ex quo decidendi [illegible] [illegible] [illegible]

[illegible] [illegible] ex proponit ad creat. [illegible] in monasterio necessarium esse [illegible]. [illegible] ordine ac merito [illegible], et quod magis est ut [illegible] possessionis [illegible] patronus eligat in ecclesijs conventualibus [illegible] [illegible] a [illegible]. Ex quaternis [illegible] ecclesijs conventualibus et alijs capellis, cum [illegible] intelligendi causa plures solutiones [illegible] interpretes glossa [illegible] presenti et Archidiaconus [illegible] n. 2. asserunt [illegible] illum agere [illegible] presentandi quod illi [illegible] competere in ecclesijs conventualibus etsi postea [illegible] [illegible] [illegible] [illegible] quod [illegible] nullo modo [illegible] potest, adversatur enim imprimis verbis illius [illegible] ibi monachorum electi [illegible] [illegible] electione intervenire quod nequaquam fieret si patrono potestas presentandi competeret, ut constat ex [illegible] decernimus 16 q. 7. etenim [illegible] [illegible] quod [illegible] [illegible] decernimus [illegible] [illegible] verbum magis significat ecclesiam curatam quam ecclesiam conventualem cuius superior proprie [illegible] [illegible] [illegible] [illegible] potestas presentandi [illegible] non fuisset sicut fuit postea per [illegible] [illegible] [illegible] tamen [illegible] non potest pred. [illegible] concessum fuisse [illegible] virtute illius presentatum admitti [illegible] quare Archidiaconus [illegible] n. 3. putat patronum fuisse admissum in electione de qua [illegible] [illegible] [illegible] cum alijs monachis quam [illegible] verificare ius patronatus in ecclesia conventuali de qua [illegible] quae solutio convincitur ex verbis pred. [illegible] ibi monachorum electi, et possessionis [illegible] quae verba [illegible] demonstrant monachorum electionem distinctam esse a ministerio patroni [illegible] convincitur pretenea [illegible] patronus de quo in pred. [illegible] [illegible] non potest concurrere cum monachis ingrediendi electione [illegible] sacrosancta [illegible] Massana de elect. et [illegible] cum ecclesia [illegible] ubi omnes [illegible] [illegible] possessionis et proprietatis quare [illegible] [illegible] [illegible] [illegible] [illegible] illum educere in electione Abbatis habendum esse patroni [illegible] ipsius monasterij et suum [illegible] [illegible] [illegible] debere quod [illegible] [illegible] [illegible] presentandi [illegible] certum [illegible] consentaneum esse [illegible] [illegible] ex [illegible] [illegible] principi denuntiare aliquem esse in sua [illegible] [illegible] [illegible] ne forsan eveniat in detrimentum [illegible] [illegible] adversarij [illegible] [illegible] [illegible]

[illegible]

Rot. mag. in lib. 14 de elect. Rot. mag. lib. 13 dict. ... agitur est Episcopos electos non esse a Romano Pontifice instituendos nisi a primatibus sint ... Imperatore, obtinuerint quia eius interest mores illius cognoscere qui tales ecclesias intrent, Parentes administraturi sunt iuxta tradita per Innocentium et Abbatem mag. super ... de accusationibus, ... res respexit. Comm. ubi sup. n. 5. ingerendis autem similibus beneficiis eiusdem ecclesiae ... tere ... [illegible] ... potestas presentandi patronis concedatur, ... docet Trident. sess. 25 de reformat. cap. 9: — in ... interpretat. ad ... mag. de ... Sacrosancta de elect. ... Sec. 11. § regis de Simonia, et ad ... mag. Massena, et ad ... mag. Sacrosancta de elect. ... de quibus et aliis videndus est Lambertinus de iure patronatus ... lib. 1. art. 2. ...

Demum ... in posteriori ... parte docet ... patro... ni pro ecclesiae fundat. honorem processionis et subsidium in inopia competere ... Innocentius n. 3. Vincentius ... tamen. Illud antiquiores docent praecipue Abbas in presenti n. 4. ... honorem patroni concedere oppugnat Lambertinus loco superius citato quo asserto quatenus edocet processionis honorem patroni ... a ... omni Christiano et ex ... ex ... mag. pro mentis 16 ... ibi praeter processionem a ... quod omni Christiano et ex ... cap. ... [illegible] ... ex quibus iuribus aperte ... sunt honores patroni ... cedi cum omnibus concessis generaliter proponatur. quae difficultas ut cognoscamus ... ratione ... praecipiamus expedit cognoscere qualis sit et in quibus consistat hic honor processionis ... Verbi ... et inprimis Glossa in presenti. Verbo processionis ait processionis ... ut processionaliter accedat cum patrono ad Episcopum ... qui ad ecclesiam vacantem ... ab illo presentatur. ... intellectus displicet ... omnes predicti ... mod. cap. pro mentis ... non habent potestatem ad presentationem faciendam ... fundam. ... placet Archidiaconi ... velut ... mod. cap. pro mentis ... asserit verbis processionis ... in verbis processionis. Verius dicendum est ... in illo verbo processionis honor demonstrare patronum ... cum clericis ... solemnibus ... prelatum adesse debere ... ut rector ecclesiae teneatur processionaliter cum clericis ... exire ad ... patrono ... quo casu ... ad illum veniat expedit ... sufficit ... rector exire ... loco recipiendum quem honorabiliter recipere debet, ut ... laicis ... excellentiori fungatur. Ut sic ... gratitudinis ... patet, sine ... rector ... debet patrono reverentiam quam patri filius ac Magistro discipulus, unde patet ... patrono ... per fundat. esse accipiat ut fideles excitentur ad fundandas ... construendas ecclesias ... desiderant sacri Canones ... prerogativas ... concesserunt ... Abbas in presenti n. 5: ... predictam processionem soli patrono ... concedi.

Neque obstat predictorum iurium ... a ... generaliter omnibus Christianis ... omissis ... exceptionibus quas ... et ... honorem hunc processionis concedi ... Lambertinus ubi sup. dicendum est illa iura docere ecclesias patronatus per laicos ... esse consecrandas ... Christianis in communi ... debet quasi dicat ingressum ecclesiae ... in divinis audiendis omnibus aliis in communione fidelium ... existentibus concedi ... ex communicatis, unde pred. iura non agunt de iure patronatus ... Pontificis ... sunt in ... ante ... ingred. ecclesiae erant admissi ... predictis canonibus antiquis ... canonibus est institutum non respexit ad honorem processionis ... celebrabatur. ... ad illos ... a ... agunt.

... patrono ... [illegible] ... 30 ... [illegible] ... 4 ... [illegible]

Schedas. 46.

Relectio ad text. in cap. Cum locum. 14 de sponsalibus lib. 4. tit. 1.

Ad Text. in cap. Cum locum 14. de sponsalibus

num. 1°

Requiritur vol. ... liber.

In hoc tex. in pluribus quae aliis Capitibus huius tit. [illegible] ... de matrimonio ... vel mere carence ... in Contractu ... [illegible] ... cum quaestiones ab ... [illegible] ... Et ... [illegible]

[illegible]

... aut vis, aut ... et Judex ... debet ... [illegible] ... ber. probat ... in cap. Veniens 13. cap. Deinde 15. cap. requisivit 16. cap. ad id 21. cap. ... fraternitatis ... cap. ... 28. cap. penult. 29. ... de sponsalibus ... significavit 2. de eo ... qui ... adulterii, cap. 1° cap. ... 6. de ... Veniens 11. de ... cap. ... 45. cap. ... 25. de ... 27. ... [illegible]

[illegible]

... devenitur ... 27 ... [illegible]

num. 2

Sed ... [illegible]

... difficultas ... [illegible]

num. 3

Secunda difficultas ... [illegible]

num. 4

3ª difficultas ... [illegible]

num. 5

4ª ... difficultas ... [illegible]

[illegible]

n.° 6.

Alij vero aliis … dicunt … Amirus … utrumlibet proponere … ut in … Supponenda … animadvertimus … considerari. Alterum cadens in …, vel in mortis, corporis cruciatus, aut servitutis … l. 2. … [illegible] … et hic excipit … [illegible] … dicamus. Alter est … qui … cadit in constantem virum, … l. … 146 ff. de R. I. = … [illegible] … cadens in constantem virum … [illegible] … ut … [illegible] … q.d. … [illegible] … cap. 3. § 4. … [illegible] … cap. 135. n. 8. … [illegible] … circumstantiis, loci, personarum, ut … [illegible] … cap. 22. n. 51. … [illegible] … lib. 4. de … [illegible] … ubi definit … [illegible] … lege … [illegible] … explicat … =

n.° 7.

Quo … [illegible] … cadens in consta[ntem] … [illegible] … l. … [illegible] … de … [illegible] … l. … ff. de … [illegible] … et carceris … l. qui in carcerem ff. de … [illegible] … sine … [illegible] … cap. … [illegible] … 24. … [illegible] … [illegible] … [illegible] … l. 45. … [illegible] … 4. … [illegible] … =

n.° 8.

… [illegible] … reverentialis … [illegible] … Velut … [illegible] … ad annullandum … [illegible] … cap. … [illegible] … l. … ff. de … [illegible] … pater ff. de … [illegible] … 8. … 4. … n. 7. … [illegible] … l. quia … [illegible] … =

… [illegible] … sufficiens … [illegible] … [illegible] … cap. … [illegible] … [illegible] … 4. … 6. n. 29 … [illegible] … =

n.° 9.

4.° et ultimo … [illegible] … in constantem virum … [illegible] … [illegible]

[illegible] ... matrimonii ... [illegible] ... delicto ... [illegible] ... Clandestini ... [illegible] ... nulla ... obligatio ... [illegible] ... Conc. Trid. ... [illegible]

Baptismus [illegible] ... [illegible]

n.o 10

[illegible] ... matrimonio ... [illegible] ... Celebratio ... [illegible] ... validitatem ... [illegible] ... Consensus ... [illegible]

n.o 11

[illegible] ... [illegible]

n.o 12

[illegible] ... Baptismus ... [illegible] ... [illegible] =

2.13 Quidem [illegible] difficultas [illegible] in casu [illegible] desperaverunt, [illegible] validus [illegible] valere [illegible] obligatio, quoniam [illegible] et [illegible] liber [illegible] obligatio, [illegible] parte [illegible] [illegible]

14 Denique [illegible] obstat [illegible] difficultas [illegible] voluntas [illegible] liber [illegible] voluntas [illegible] Nec [illegible] voluntate [illegible]

15 Ex his [illegible] decidenda [illegible] D. Augustinus [illegible] cap. [illegible] 22, 1, 21 [illegible]

16 [illegible]

adeo

[illegible] dicta [illegible] quod a principio fuit nullus, quoniam [illegible] per [illegible] [illegible] tempore [illegible] recedendi fuit ratificatus, ut [illegible] nullitate [illegible] post [illegible] [illegible] decreti [illegible] sess. 24. de reformat. cap. [illegible] [illegible] qualitas [illegible] post [illegible] decreti [illegible] quia fuerunt novaly professy [illegible] Sanchez [illegible] lib. 2 de matrim. disp. 32 n. 7 [illegible] 14 [illegible] quia [illegible] professy [illegible] post professionem [illegible] nec [illegible] nullitas [illegible] decreti [illegible] professionis [illegible] ratificasse [illegible] professionem [illegible] nulla erat [illegible] decreti [illegible] cap. 19. [illegible] de regularibus [illegible] 73 [illegible] 12 [illegible] moralis [illegible] [illegible] Sanchez [illegible] disp. 7 n. 10 = [illegible] [illegible] ratificatio [illegible] [illegible] =

[illegible] n. 17

[illegible] in futuro explanatio [illegible] Clement. [illegible] decreti [illegible] regularibus [illegible] religios. [illegible] nullitatis [illegible] voto [illegible] [illegible] voti [illegible] [illegible] Celebratio [illegible] debet [illegible] [illegible] difficultatem [illegible] [illegible] nullitatis [illegible] voti [illegible] religiosus [illegible] [illegible] cap. 7 [illegible] Sanchez lib. 7. [illegible] disp. 27 [illegible] =

[illegible] disp. 29 n. 5. [illegible]

[illegible] ult.

[illegible] professus [illegible] [illegible] nullitatis [illegible] Sanchez lib. 4 de matrim. disp. 6 n. 7. [illegible] cap. 97. [illegible] 26 [illegible] [illegible] Sanchez [illegible] [illegible]

[illegible]

[illegible]

Ad cap. Si inter Virum 31. de sponsalib.

ad [illegible] in cap si inter virum de spons lib. 4. tit. 1.

Alex. si inter virum et mulierem legitimus consensus interveniat de presenti, ita quod unus alterum consensu mutuo verbis consuetis expresso recipiat, utroque dicente ego te in meam accipio et ego te accipio in meum vel alia verba consensum exprimentia de presenti sive sit juramentum interpositum sive non, non licet alteri ad alia vota transire: quod si fecerit, secundum matrimonium de facto contractum etiam si sit carnalis copula subsecuta separari debet et primum in sua firmitate manere. Verum si inter ipsos accessit taliter modo promissio de futuro. utroque dicente: ego te recipiam in meam et ego te in meum sive verba similia si alius mulierem illam per verba de presenti desponsaverit, etiam si inter ipsam et primum juramentum intervenerit (sicut diximus) de futuro, huiusmodi desponsationis intuitu secundum matrimonium non poterit separari, sed eis est de violatione fidei penitentia iniungenda. hactenus Alex. cuius verba

Species hec est Titius et Sempronia coniungi matrimonio desiderantes mutuum consensum verbis consuetis expresserunt. utroque dicente ego te accipio in meam et ego te accipio in meum vel alia verba consensum exprimentia de presenti protulerunt ex quibus legitimum inter ipsos consensum intervenisse intervenisse manifeste colligitur et sponsalia juramento firmarunt vel non. quesitum utrum alteri liceat ad alia vota transire. questioni Alex 3 respondit non posse alterum secundum inire coniugium in hac specie quod si illud de facto inierit, etiam si sit carnalis copula subsecuta, ratum non est sed separari debet et primum in sua firmitate manere. pergit Pontifex et querit quod si inter ipsos promissio accessit taliter modo de futuro utroque dicente ego te recipiam in meam et ego te in meum vel similia verba proferente. poterit ne alter cum alia matrimonium contrahere dictam illa sibi per verba presentem consensum exprimentia cum matrimonio copulare.. pariter et huic consultationi Pontifex respondit ita quod si alius mulierem illam per verba de presenti desponsaverit, etiam si inter ipsam et primum juramentum intervenerit de futuro, huiusmodi desponsationis intuitu secundum matrimonium non poterit separari, sed eis est de violatione fidei penitentia iniungenda. hec integra contextus series et facti narratio etc.

Ex qua talis deducitur definienda [illegible] sponsalia de presenti [illegible] solvuntur per subsequens matrimonium etiam carnali copula consummatum. sed sponsalia de futuro etiam juramento munita solvuntur per sequentia sponsalia de presenti contracta. probant [illegible] in nulla huius [illegible] fuera. [illegible] in cap 1 de [illegible] per [illegible] a secunda coniuge separaretur et ad priorem redire cogatur hoc tit cap de illis 5o [illegible] si non est amplius [illegible] a [illegible] 25 cap [illegible] cap [illegible] cap ex parte 9 cap veniens 15 cap sicut ex litteris 22 cap [illegible] fraternitatis 25 cap [illegible] cap [illegible] [illegible] de [illegible] cap quia [illegible] [illegible] de spons. probant etiam et [illegible] sponsa fuera cap [illegible] puer [illegible] [illegible] cap licet preter de sponsa duorum [illegible] fuit [illegible] copulata de desponsatione impuberum cap [illegible] cap accepisti cap licet preter de sponsa duorum [illegible] [illegible] fraternitatis cap [illegible] [illegible] cap de illis 3 [illegible] consensus de presenti aut carnalis sit inter [illegible] commixtio subsecuta de conditionibus appositis cap [illegible] veniens de eo qui cognovit [illegible] uxoris sue cap ex litteris [illegible] [illegible] carnaliter [illegible] cognovit cap [illegible] eodem tit cap litteras 13. ad [illegible] revert. [illegible] de matrimonio [illegible] interdictum [illegible] cap ex litteris 2. eodem tit cap [illegible] 27 [illegible] 2 cap [illegible] [illegible] de [illegible] Barbosa in [illegible] consensu [illegible] 85 [illegible] 3 [illegible] 2 [illegible] 4. [illegible] interpretes [illegible] de spons [illegible] cap 5 n. 9 Sanchez de matrimonio [illegible] [illegible] et [illegible] interpretes [illegible] de spons [illegible] cap 3 n. 2 [illegible] 9 [illegible] 49 et [illegible] 32 [illegible] eodem [illegible] cap

Margin: [illegible] electus anno domini 1227 die 19 mensis Maii [illegible] post obitum [illegible] [illegible] [illegible] et inter alia sui [illegible] [illegible] [illegible] [illegible] interuenerit [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] hanc decretalem [illegible] in [illegible] [illegible] 4 [illegible] 27 [illegible] 2 [illegible]

cap 27 apud Basilium de matr. § 2 cap 7 et lib. 12 de spons. cap 13 et 4 Barbosa ... voluto matr. 2 p. n. 83 idem Wolf. de spons. 2 p. cap 7 § 3 n. 5 et ... et § 4 n. 22 ...
~~[illegible]~~ Menochius lib. 3 de praesumpt. praesumpt. 1 n. 27 et plures alij
consulto [illegible]

Sed pro dubitandi ratione non nisi cap. ... qui dicit sponsalia
de presenti non solui per sequens matrimonium. solui tamen sponsalia per verba futuri consensum exprimentia
contracta insurgo sic sponsalia de presenti non maioris virtutis et efficaciae habent nec arctius adstringunt
quam sponsalia quae de futuro appellamus sed pari modo dissolui queunt. Quemadmodum sponsalia de
soluuntur per sequens matrimonium sic solui debent sponsalia per verba de presenti contracta id probo et exemplo
et parum quae ad hanc rem verba decisiue ... in cap. ex litteris 3 de eo qui cognouit cons. ... vir
quandam puellam verba [illegible] sibi in uxorem desponsauit et matrem eius carnaliter saepe cognouit
post carnalem commixtionem puellam tractauit adultam. petijt ergo sibi ... viro prouideri et utrum
mulier possit cum alio matrimonium contrahere ... consuluit. Inuentus autem ... eidem viro pro peccato ...
fecit iniungi. Diocesano ergo mandans ut illos debeat adinuicem separare et mulier alteri viro non ...
si postquam nouit vir et matrem delicti ... non erubuit commisceri. Vir ergo et mater eiusdem mulieris
debent ad alias nuptias conuolare sed continenter seruare tenentur et enorme flere delictum quod nefandam
contraxerunt, ne de lapsu casus non timeatur ipsorum. quae decisio aperte decernit filiam in uxorem desponsatam
posse dimitti propter affinitatem superuenientem ex persona matris cum qua damnata commixtio habita
cum sic ... affinitas contracta sponsalibus de futuro contingens ea sponsalia soluit ita ut sponsus carnali
consanguineos sponsae cognoscens non possit cum sponsa matrimonium contrahere ut probant iura in cap super eo 2 de cons. et
affinit. cap super eo de testibus cap litteras de desponsat. impub. cap tertio loco de praesumpt. cap ueniens ...
alias de eo qui cog. cons. sed haec affinitas sponsalia etiam de presenti soluit ut colligitur ex d. cap ex litteris ...
sponsalia quae per verba de presenti fuerunt contracta ut patet ... desponsauerat in uxorem propter superuenientem
affinitatem soluuntur. Quod sponsalia de presenti maioris virtutis et efficaciae non sint quam sponsalia de futuro cum eodem
... et consequenter quemadmodum sponsalia de futuro per subsecutum coniugium dissoluuntur, sic etiam dissolui debent
sponsalia de presenti igitur minus recte ... in hac decisione cauetur ...

Qua dubitandi ratione non obstante vera est huius ... decisio
docet sponsalia de presenti per subsequens matrimonium etiam carnali copula consummatum non solui. dicimus tamen sponsalia
n. 2 sponsalia quae futurarum nuptiarum mutua promissio sunt cap. ... 30 q. 5 cap 1 de spons. ...
§ de spons. 1 1 lib. 1 p. 4 ab spondendo sic dicta ut Florentinus scribit in l. 2 § de spons. sponsa...
quod maiores ... stipulabantur futuras uxores ... in l. 2 ... § de spons. quod uxorem quod ducturus erat
ab eo unde ducenda erat stipulabatur eam in matrimonium duci ... qui daturus erat et idem spondebat et qui contrahebant
stipulatores sponsiones quod dicebantur sponsalia ut testatur Aulus Gellius lib. 4 noct. Atticar. cap 4 docent Basilius
lib. 1 de matr. cap 1 Sanchez lib. 1 disp. 1 ... haec inquam sponsalia dupliciter contrahi possunt, ...

contrahunt per verba de futuro id est per verba exprimentia consensum in praesentem de futuro. quae recte et proprie sponsalia dicuntur et magistra sive sponsalia appellantur. [illegible] ut inquit [illegible] de spons. l. 1 c. 6 sponsalia l. n. 6. Sanchez de matr. l. 1 d. 3 contrahuntur etiam per verba consensum praesentem exprimentia quae sponsalia de praesenti nuncupantur. et ista improprie appellantur sponsalia non ex eo tantum quod futura corporum traditio praemittit ut explanavit Panormitanus non solum ex eo quod matrimonium per sponsalia id est per stipulationes ut insigne est contrahatur per interrogationem et responsionem ut inquit [illegible] n. 22. vel ante carnalem copulam et traductionem ad domum. potest uxor appellari sponsa quod sacra scriptura et iura canonica passim ostendunt cap. tertio [illegible] de praesumpt. cap. accessit cap. [illegible] de sponsa duorum cap. coniuges cap. desponsatam 27 q. 2 Lucae cap. 1 vers. 27 [illegible] scribit missum fuisse Angelum Gabrielem ad virginem desponsatam viro cui nomen erat Ioseph quae erat eiusdem et uxorem duxit Matthaeus cap. 1 [illegible] ex Deut. cap. 22 [illegible] si quis sponsam alterius in agro oppresserit morte moriatur et uxorem alterius violaverit. docent Petrus Greg. de spons. cap. 1 n. 6 Sanchez et [illegible] [illegible] praxe verba autem sponsaliorum de futuro quae fidem de matrimonio contrahendo dant [illegible] ego te accipiam in uxorem ego te accipiam in virum cap. praeterea 2 cap. de cond. 5 cap. sicut ex litteris 22 [illegible] si inter virum ego te accipiam in virum cap. praeterea 2 cap. de [illegible] sponsal. verba autem de praesenti sunt utrique dicente ego te accipio in meam, ego te in meum [illegible] cap. si inter virum 32 vel si quis promiserit quod aliquam alio tempore pro coniuge teneret et ei sicut uxori fidem sui [illegible] et mulier se illum pro marito habituram et idem ei [illegible] proprio viro servaturum esse ex [illegible] de spons. et ista fides est consensus quando [illegible] manus [illegible] et se consentit ducere et mulier se concedunt unus alii et mulier se recipit cap. 1 [illegible] de sponsa duorum cap. [illegible] 27 q. 2. docet Petrus Greg. de [illegible] n. 8 Sanchez et alii [illegible] praxe [illegible]

2° monendi sumus ea verba [illegible] per quae sponsalia de praesenti vel de futuro contrahuntur in [illegible] decreto expressa non proponi ad certam formam praescribendam ita ut mutuus [illegible] de [illegible] in sponsalibus contrahendis necessarium est [illegible] exprimi per ea verba [illegible] debeat. sed proponi exempli gratia quod [illegible] non res [illegible] cap. 1 ne clerici vel monachi. licet [illegible] multi [illegible] explanaverint [illegible] verba necessario desiderari ut matrimonium legitimum [illegible] sit nec sufficere consensum matrimonialem signis exprimere [illegible] nutibus quod [illegible] probare conantur ex decreto cap. licet de sponsa duorum cap. consultationi [illegible] verba probantur [illegible] sponsalibus cap. [illegible] [illegible] verum [illegible] credo satis esse signa consensus exprimentia ad [illegible] sponsalibus cap. [illegible] et matrimonium [illegible] verba requiri id quod praeterquam quod doctissimorum [illegible] auctoritate. in [illegible] canonice suadetur aperte in cap. ex parte de restitutione spoliatorum cap. [illegible] de spons. cap. fin. de coniugio servorum [illegible] nec facto nec verbo [illegible] cap. [illegible] [illegible] muti et surdi sponsalia contrahere posse per legitimum consensum de praesenti verba [illegible] necessaria esse [illegible] in [illegible] ad factum et expeditionem contractus [illegible] ut [illegible] omnes interpretes [illegible] [illegible] probant [illegible] et alia quae nuper adduximus [illegible] verba in eis non praescribunt certam formam [illegible] exempli gratia adhiberi. vel facti narrati quod [illegible] statuere et imponere non solet [illegible] Sanchez [illegible] matr. l. 1 d. 31 [illegible] per totum [illegible] [illegible] sic proponi cap. [illegible] enodatur tenenter observatur inquirit oportet verum decisionis [illegible] rationem qua moveri potuit Alex. 3 ut [illegible] decerneret sponsalia de praesenti [illegible]

per sequens matrimonium et carnali copula consummatum, dissolui tamen per illud sponsalia de futuro etiam iurata ... munita. Et quidem ea esse existimo, quia cum legitimum sit matrimonium quod solo celebratur consensu cap. dilectus huius sponsalia cap. sufficiat, quod consensus si non in nuptijs solus defuerit, cetera omnia etiam cum ipso coitu celebrata frustrantur 27 q. 2 cap. omnis cap. coniuges cum alijs [illegible] 27 q. 2 [illegible] non copula interueniat in nuptijs [illegible] de [illegible] cap. matrimonium 27 q. 2 non [illegible] defloratio virginitatis facit coniugium sed pactio coniugalis denique cum virgini puella coniugis est non cum viri admixtione cognoscitur [illegible] vt [illegible] Ambrosius in libro de institutione virginis cap 6 relatum in capit. cum initiatur 27 q. 2 nec ab hac catholica veritate recedere cogunt Augustini et Leonis Papae auctoritates quarum meminit Gratianus in cap. non est dubium cap. cum societas eadem 27 q. 2 in qq. non esse verum et legitimum perfectum matrimonium ante consummationem sed tunc matrimonium vere inter virum et feminam celebrari et contrahi cum mutuam ex affectu consentiente suadent [illegible] non quod horum ea mens est sed alia longe diuersa quam [illegible] tradunt [illegible] de spons. 2 p. cap. 7 § 4 n. 2 Basilius [illegible] de matrimonio cap 16 Gutierrez lib. 1 canonicarum cap. 17 Hermosillus lib. 2 animaduers. cap 2. nos supersedemus obiter eas referre contenti cum solo intercedente consensu verum et legitimum sit matrimonium quod per sponsalia de praesenti contrahitur cap. 1 cap. sicut de spons. tamen dissolui potest per mortem alterutrius coniugis naturalem non consummatum vt cap. [illegible] Dominus cap. fin. de secundis nuptijs cap. in praesentia de spons. et per ingressum religionis si non fuerit consummatum cap. verum cap. ex publico de conuersione coniugat. cap. si quis dicat 27 q. 2 [illegible] merito per matrimonium de facto contractum illud non dissolui non potest vt in nostro textu et alijs pro eius confirmatione adductis [illegible] est etiam si carnali copula non consummatum sit quia mulier alligata est legi quanto tempore vir eius viuit [illegible] cap. fin. de secundis nuptijs [illegible] 1 ad Corinthios cap 7 et quamuis coniux qui habet rem carnalem cum alia quae cum sua coniuge adulterium committit cap. intelleximus de adult. ideo talis copula non debet prodesse ad simul contrahendum sed obesse ad se inuicem separandum et [illegible] expellendum vt ille coniux adhaereat priori cap. 1 cap. licet de sponsa duorum sponsalia vero de futuro etiam iurata soluuntur per sequentia de praesenti quae cum vinculum indissolubile matrimonij non contineat sed promissionem tantum de futuro matrimonio contrahendo cap. praeterea 2 de spons. per sponsalia autem de praesenti vinculum indissolubile contrahitur, ideo sequentia sponsalia de praesenti praeiudicant priori de futuro quomodocunque iuratis. [illegible] quia vinculum superueniens praeiudicat priori [illegible] cap. duobus de sponsa duorum et iurata adhaerens non mutat eorum naturam de periurio tamen et de fide mentita prioris est illi poenitentia iniungenda vt in dicto nostro textu scribit Alex. 3 et probat [illegible] in capit. sicut ex litteris hoc titulo. sic et voto simplex virginitatis soluitur superueniente matrimonio cap. meminimus [illegible] quod clerici [illegible] cap. [illegible] sed est illi de non adimpleto voto poenitentia imponenda cap. 1 [illegible] 27 [illegible] et similiter simplex votum soluitur per votum solemne cap. vnico de voto de regularibus in 6. sic et transeunt sponsalia de futuro in matrimonium per copulam postea subsecutam cap. is qui fidem de sponsa [illegible] cap. adolescens hoc titulo [illegible] [illegible] recedendi [illegible] Canonistae et alij antiquiores [illegible] quos refert Buenus in rationali ad [illegible]

Sed 2. [illegible] expendo [illegible] in cap. matrimonium 1 27 q. 2 [illegible]

[illegible] Ioannis Chrysostomi homilia 32 in Matthaeum cuius auctoritas etiam refertur in cap. omnis [illegible] 4 27 q. 2 dicentis quod matrimonium non facit coitus sed voluntas et ideo non soluit illud separatio corporis sed separatio voluntatis [illegible] dimittit coniugem suam et aliam non accipit, adhuc maritus est, quia etsi corpore separatus est, tamen adhuc voluntate coniunctus est cum vero aliam acceperit [illegible] plane dimittit, non quod dimittit, moechatur sed quod alteram ducit. haec [illegible]

difficultas nec ea quae non leviter turbat nam Xti decisionis & perpendentibus sic prosequor in proximis verbis Xtus

hominis docuit matrimonium non solvere separatione corporis sed separatione voluntatis & ideo uxorem suam dimittentem adhuc

maritum esse si aliam non acceperit, subdit postea in calce Xtus cum qui uxorem suam dimiserit & aliam

duxerit, non esse prioris maritum quia non tantum corpore separatus est sed etiam voluntate sed posterior ut vitat ille neque

non tantum corpore separatus est, sed adhuc voluntate coniunctus est, cum aliam acceperit tunc plene dimittit. Spon-

salia per verba de praesenti cum muliere quae contraxerit & eam dimiserit poterit cum alia matrimonium contrahere & conse-

quenter sponsalia etiam de praesenti exprimunt consensum possunt per aliud subsequens matrimonium dissolvi cum tamen per 2°

Tom. 3 dissolvatur coniugium. cui difficultati respondet Petrus Gregorius in scholiis ad cap. 4 de sponsalibus

n° 33 ubi docet eo loco non probari quod matrimonium solvi posse per aliud matrimonium post 3. sed Chrysostomi

verba referri oportere ad dimissionem de facto non de jure quia vere de facto dimittit uxorem & moechatur qui

tunc cum altera se coniungit, conculcata quae suis facit sua memoria memoria cinereis, ut non vetat sed de jure rumpat

vinculum prioris matrimonii et sed secundam jure & licite duci posset quos solutus ex posterioris Xti verbis probat Petrus Greg.

ubi non solum qui dimittit moechatur sed qui alteram ducit. sed haec solutio refellitur expressim ex verbis Xti & eius contextura

ex qua liquido deprehenditur sola separatione voluntatis matrimonium dissolvi & eum qui aliam coniugem duxerit maritum

primum non esse igitur non tantum de facto sed etiam de jure verba Xti accipi debent ita ut ille & licite posset quia

uxorem dimittere & aliam ducere. quare omissa interpretatione Petrus dicendum judico quod praeterquam quod non

pauci imbuunt hominibus illius operis imperfecti in Matthaeum quae ibi referuntur ex in Do cap omnis reg: & Chrysostomi

nomine circumferuntur erroribus sparsis ab haereticis [illegible] Aliani dici quidem vere potest illa intelligenda Xtorum

Italiae ubi qui agebant, judiciorum ubi qui licita repudia apud illos itaque sola voluntate induci & separari

coniugia docet me doctissimus Basilius lib. 1 de matrimonio cap. 20 n° 12 ubi addit etiam Nicolaum ad consulta

Bulgarorum cap 3 hoc idem testimonium adducere ad probandum necessarium esse consensum ad matrimonium illis quod solum

sufficere non vero copulam inquit itaque qui consensus si solus in nuptiis forte defuerit cetera omnia etiam cum

ipso coitu celebrata frustrantur Joanne Chrysostomo magno doctore attestante qui ait matrimonium non facit coitus sed

voluntas. quare id quod dicit voluntate dissolvi & separari idem est ac si diceret non fieri sine voluntate matrimonium &

illa sola fieri non est universalis illa juris regula de qua in [illegible] 1 vel tamen n° de R. J. glossa etiam in cap. 1

de R. J. multasque eius exceptiones adducit.

Praeterea 2° nam Xtus 4 expendo tx in cap. sicut dicimus qui 2 ergo

ubi probari videtur sponsalia de futuro minime per alia sponsalia de praesenti solvi sed sic desponsatus legitimam

statim esse uxorem verba tx si sicut dicimus tactis scripturis juraverit mulierem legitimam se eam uxorem habiturum

etsi in oratorio tale sacramentum dederit, sit illa legitima uxor quamvis nulla dos nulla alia scriptura intercesserit

sit quae verba clare enunciant desponsatam per verba futuri consensus exprimentia statim legitimam fieri uxorem

igitur & si aliam ducat dimittere tenebitur & adhaerere huic. cuius tx ideo ingens turba est interpretationum

difficultas ut pro eius enodatione variae occurrant solutiones. Gut. lib. 1 canonicarum cap 2 n° 29 & 32 [illegible]

Facchineus lib. 3 controversiarum cap 41 difficultatem agnoscentes sic eam solvunt, quod ille sumptum, [illegible] ex

novella Justiniani ut eius inceptio fert hoc est ex auto gg. modis natus efficitur legitimus et per ea ut adveniat gratia illo verbo in novellis. Vel ex tit. 2 novelle Just. tit. 23 habent formaliter [illegible] huius textus vel cum non sit Pontificia nec conciliorum decisio nec ex dicto et authoritate aliorum Sanctorum desumpta, de huius textus auctoritate potest dubitari quoniam leges Caesarum non decreta [illegible] relate hunc canonis sunt et habent cum in ipsomet canone ad aliquos textus vel concilio incorporatur sicut ut tradit Medices de legibus et ... pe q. 3 n. 19. Id enim potest sic intelligi quod decimus noveris esse, si non procedere gg. loquitur quod mulierem in domum suam traduxit et juravit se pro legitima uxore habiturum et cum ea longo tempore habitavit ut ex dicto auto ... illo duxit in domum et illo jurantis habiturus eam legitimam uxorem et paulo inferius habentes tempore multo gg. omnibus concurrentibus censetur inter eos matrimonium contractum de presenti cum per traductionem in domum quam sponsalia precesserint matrimonium praesumatur facti praesumatur cap. ex parte de restitutione spoliat. cum hic [illegible] per quod de donat. inter virum et uxorem cum fuerit quod de C. et D. mulierem cum alijs quod de ritu nuptiarum ex longa viri et mulieris cohabitatione ut post gg. in cap. 30 q. 5 tradit Inranus in dicto cap. ex parte.

Praeterea expendi potest difficile et obscurum textum dicti decretum quod habetur in cap. veniens 2 de eo qui cognovit, ubi iuvenis cum quadam puella per verba de futuro sponsalia contraxit et matrem ipsius carnalis commixtione cognovit et cum intellexeret ut matrimonium cum sponsa consumaret noluit facere donec factum episcopo proponeret. episcopus textus consuluit et ipse respondit quod si matrem sponsae suae cognovit et sponsam nunquam carnaliter adesset, imponenda est ei poenitentia paulo maior quam pro adulterio qua peracta parte ipsius ex dispensatione episcopi poterit cum alia matrimonium contrahere. ceterum si sponsam cognovit antequam matrem vel post nunquam eam vel aliam poterit accipere in uxorem. quo loci problema expendit verba illo si sponsam cognovit antequam matrem nunquam eam vel aliam accipere potest in uxorem, quae verba plane demonstrare videntur sponsalia per verba futuri expermenta [illegible] contracta in matrimonium non transire per subsecutam copulam, et nec in [illegible] matrimonium transire posse quod sic probo nam illo est quod sponsam de futuro cognovit propter affinitatem supervenientem ex copula cum eius matre habita prohibetur eam et aliam ducere, et sponsalia illa per copulam matrimonium effecta non alias non solvuntur propter affinitatem sed poenitentia pro commisso, maritus iniuncta repetenti exigere sponsae cohabitare teneretur ut scriptum est in cap. Jordanus et eodem tit. de eo qui cognovit. etc.

quia illo verbo eam huius textus difficultate cuiusque duplici modo legendus est, putant verba alterum huius textus. 1° ut verbum illud eam referat ad matrem et ad eam relatum cum sensus tradere, quod iuvenis qui puellam quam sibi desponsavit cognovit, priusquam matrem, nunquam eam matrem in uxorem accipere potest, sed sponsam quam prius cognoverat bene habebit non obstante affinitate superveniente ex copula matris quae matrem ... praesumptis textus decimus cap. veniens et 2 cap. de eo qui ... de spons. et non licet ... minime dissolvit cap. transmissae cap. Jordanus ... id quod ... expositio substineri minime potest ex eo quod iuvenis est si nunquam cognovisset sponsam, non posset adhuc eius matrem uxorem ducere obstante publicae honestatis justitia cap. sponsam cap. ad audientiam de spons. et consequenter frustra textus in eo textu expenderet sponsam prius cognitam fuisse adhuc ut matrem ... iuvenis habere ... alio est modo quia illo dictis verbis legit et de particula eam ad sponsam refert ita ut

sensus sit non posse prefatum iuvenem qui desponsatam sibi puellam antequam eius matrem cognovit, eam in uxorem accipere propter supervenientem affinitatem ex persona matris matrimonium illud presumpturus tempore illius textus solvenat quia iam correcta est per decisionem capituli discretionem capituli sordani codicis. explodenda est hec interpretatio fugienda quippe est iuxta correctionem, hinc contra interpretationibus reiectis et omissa alia quam tradit Gonzalez in n. 2 dixisse textum est illius casus esse sensum esse quod si iuvenis sponsam cognovit, antequam matrem eam in uxorem accipere debeat cum supervenientem affinitatem matris non obstat ex quo iuribus non eam habebit quo ad facultatem exigendi debitum coniugale quia propter incestum crimen quod postea commisit matrem sponse carnaliter cognoscendo non debet ipse exigere debitum sed exactum reddere tenebitur cap. 1 cap. discretionem cap. ult. illo tit. et sic ipse non habet sponsam sicut iure debet here uxorem sed ad voluntatem suam quo ad debitum coniugale exactum, si vero cognovit sponsam postquam matri carnaliter adhesit non potest uxorem here propter affinitatem supervenientem et hec est vera huius capituli sententia quam me docuit Canonistam in eo textus n. 6 et

ex dictis est pro iure decidendi inferendo interpretationem cum

textum in cap. ex litteris de matrimonio contracto contra interdictum ecclesie M. dedit filiam suam M. n. cuidam R. n. desponsandam postea orta suspicione quod prefatus Rodericus ad alia desideraret vota transire, fuit causa ad examen episcopi Cantuariensis delata qui sub interminatione anathematis prohibuit, ne antequam de precepto negotio plene constaret, tunc ad 2a vota transiret, sed ipse prohibitione contempta aliam sibi in facie ecclesie solemniter copulavit uxorem et cum episcopus de 1o matrimonio vellet cognoscere, mulier ad sedem apostolicam appellavit, cuius appellationi deferens episcopus sub excommunicationis interminatione districte interdixit ecclesie ne cum nuberet donec causa ipsa finem debitum sortiretur ipsa vero de appellationis remedio confisa alii nubere non expavit. mandat Pontifex in hac specie quatenus si nihil aliud obstiterit quod impediatur propter consensum de futuro qui inter prefatos M. et R. accessit precessisse, 2a matrimonia inviolabiliter observanda sunt sublato appellationis obstaculo. licet qui contra interdictum ecclesie ad 2a vota transire non debuerint sed est contravenerunt ut de vota sexta sacrata coniugii dissolvat, alia vero penitentia eis debebit imponi qui contra prohibitionem ecclesie hoc fecerint. ex qua decisione aperte colligitur quod si quis post sponsalia de futuro inita cum alia postmodum coniugium ineat sponsalia solvi et coniugium in sua firmitate manere et merito non cum sponsalia de futuro promissiones futurarum nuptiarum sint, non autem vinculum indissolubile coniugii contrahentes hoc quod vinculum repetatur in matrimonio postea cum alia contracto illius prejudicat matrimonii atque fides vinculi et desponsationis illius ubi non debet matrimonii ..... adeo ut etsi contra interdictum ecclesie contractum sit, dissolvi non debeat sed in firmitate sua iure ille decernit et

oppone post textum in cap. ea Lateranensis de sponsa duorum

~~Ex litteris de sponsa~~ ubi sermo est de his qui super sponsaliorum valore pendente appellatione ad aliud matrimonium transierunt et decernit quod si in tali casu ante sed Iudex cognitionem cause ad eodem ad aliud contraxerint matrimonium et qui appellaverint ecclesia publice in ecclesia interdicatur ne ante decisionem cause aliud contrahant matrimonium et contra interdictum ecclesie publice facti venire presumpserint, matrimonium tam presumptuose contractum Iudex ecclesiasticus debebit irritare. ex qua decisione aperte colligitur quod si qui post contracta sponsalia super quorum validitate lis coram Iudice ecclesiastico pendebat, ad aliud transierint matrimonium Iudicis prohibitione et ecclesie interdicto, matrimonium hoc nullum et irritum est. igitur minus recte in specie dicti capituli ex litteris

Inabq h[illegible] valere decernit atq n[illegible] [illegible] interdicq eccl[illegible] o hacq pergnatur

Scheda: 48.

Decreto di [illegible] [illegible] [illegible] [illegible] [illegible]

Pericta [illegible] 25 Dicembre [illegible] 1648 [illegible]

Cathedr. [illegible] [illegible] [illegible] [illegible]

[illegible]

= anni. =

lib. 4 tit. 5.

Verba Greg. 9.ⁱ Relata in cap. fin. cum verò appositis ita se habent, si verò contra substantiam Conjugij conditiones inserantur etc. quorum verborum Cortice explicantur ad ipsa verba ... Contraxerit quis Matrimonium cum sequentibus conditionibus ... Generationem prolis vitet, si pro quaestu adulterandi te tradas ... vel Donec inveniam aliam honore vel facultatibus ... Debitorem quaesitum fuit an tale Matrimonium sit validum an ... et respondit Greg. 9.ᵘˢ tale matrimonium esse invalidum propterea quod ... conditiones contra substantiam ipsius matrimonij ... etiam quod si contrahatur Matrimonium sub conditione impossibili vel turpi quae contra substantiam non sit ... communiter ab interpretibus deduci solet sic se habet: si conditiones contra substantiam matrimonij apponantur ... matrimonium irritant ... quae vero impossibiles fuerint conditiones matrimonium non vitiant sed pro non adiectis habentur. Quae Conclusio probatur ex textu in cap. quoniam ... cap. de illis 3 ... cap. super eo ... Hoc nostro ... probant textus in cap. solet 6 ... in cap. ... 329 ... textus in cap. quin ... 279 ... de jure civili probant textus in l. certi conditionis § fin. ff. de reb. creditis ... cum manu sata § fin. ff. de contrahenda empt. l. 2 ... l. obtinuit 3 ... mulier 25 ... cum pluribus aliis ff. de cond. ... ff. de regulis juris ... Hanc conclusionem praeter ... Sanch. lib. de sponsalibus ... Basilius ... de matrim. ... Azor. parte ... Gutierres de matrimonio ... Sanchez ... et alij plures quos ... collect. ad decretales collect. 85 ... Barb. in collect. ad textum ...

Sed licet Haec nostra Conclusio ... difficultatem ... quod substantia matrimonij ... matrimonium ... contra ... mutuo consensu ... cap. ... Basilius ... de matrimonio cap. 25 n. 5 ... substantia matrimonij ... etiam sub ... conditione impossibili ... impossibilis conditio ... cap. ... consensus ... tradit ... de sponsalibus ... collect. ad decretales collect. ... contrahens sub conditione ... tale matrimonium valere ... conditio ... impossibiles ... matrimonium valeat ... cap. ... de sponsalibus cap. Gaudemus ... Matrimonium contractum ... contrahens sub impossibili conditione ... § Impossibilis Instit. de inutilibus ... impossibiles ...

qua [illegible] [illegible] in observantia [illegible] Decendo e [illegible] [illegible] [illegible]

[illegible] Ut [illegible] [illegible] in nulla [illegible] inadvertentia [illegible] in [illegible] tempore

nostro de Condit. [illegible] Substantia matrimonii propositi agat [illegible] impossibilib. [illegible]

Conditio posse inveniri in nostro [illegible] contractu licitos et honestos qui admittuntur [illegible] in matrimonio

puta [illegible] matrimonium contrahant silentio [illegible] [illegible] vel si Patri meo Placuerit

[illegible] matrimonium Valet cap. [illegible] cap. per [illegible] 6. Hoc nostro [illegible] et plures alij quas [illegible]

Refert [illegible] in nostro [illegible] [illegible] Substantiam [illegible] [illegible] fuerint [illegible] [illegible] Substantia

matrimonii [illegible] [illegible] conditio si generatis Prolis [illegible] que [illegible] matrimonii [illegible]

[illegible] interest namque [illegible] Ut [illegible] [illegible] repleatur matrimonio contrahi et prole [illegible]

[illegible] conditio illa [illegible] [illegible] alia Honore et facultatibus [illegible] [illegible]

[illegible] matrimonii [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] de [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] Bar. [illegible] 40 [illegible]

[illegible] [illegible] e impossibilis conditio ex tribus causis accidere solere Natura [illegible]

[illegible] natura impossibilis [illegible] [illegible] [illegible] si Mare [illegible] iuxta [illegible]

[illegible] in secundo 16. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] Na secundum veriore opinionem [illegible]

[illegible] [illegible] verum natura [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] 8 [illegible] cap. [illegible] lit. B. [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] Honore [illegible] [illegible] de cond. [illegible] [illegible] Gracho [illegible]

[illegible] [illegible] [illegible] [illegible] conditio de facto [illegible] [illegible] [illegible]

[illegible] [illegible] adimplere Veluti si Montes aureos [illegible] promisisset [illegible] [illegible]

[illegible] montes [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] quas omnes condit. [illegible] [illegible] [illegible] [illegible]

[illegible] matrimonii [illegible] illud [illegible] Nec sine [illegible] [illegible] Hoc [illegible] valeat matrimonium

[illegible] necessarii [illegible] interveniat mutuus Consensus [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] cap. [illegible] [illegible]

[illegible] impediant per conditiones illas si prolis Generatis [illegible] si pro [illegible] [illegible]

[illegible] [illegible] facultatibus [illegible] Honore [illegible] [illegible] [illegible] talis Condi

[illegible] [illegible] matrimonii

[illegible] [illegible] [illegible] [illegible] Substantia matrimonii [illegible] illud [illegible] [illegible]

[illegible] [illegible] [illegible] impossibiliter [illegible] Condit. [illegible] [illegible] [illegible] matrimonium [illegible]

[illegible] [illegible] validus [illegible] cum [illegible] [illegible] sub impossibili conditione celebratus nullus [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] in nostro [illegible] [illegible]

[illegible] [illegible] [illegible] 29 [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] Condit. impossibilibus [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] impossibilis Veluti [illegible] [illegible] Paupertas [illegible]

[illegible] licet ex [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] sub Condit. [illegible] [illegible] [illegible] [illegible] Doctrina [illegible] [illegible]

[illegible] [illegible] [illegible] Condit. impossibilibus [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] matrimonii [illegible] [illegible] sub impossibili Condit. [illegible] natura [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] interuenisse [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] pro Validitate Matrimonii cap. [illegible] [illegible] [illegible]

[illegible] in [illegible] libertas, [illegible] Dos, si [illegible] aequalis quae producuntur [illegible] ne aliter aliquando Matrimonium rite contractum dissolvatur, quod fundus propter favorem Matrimonii [illegible] esse idem [illegible]. Docet enim quidem, favor [illegible] in caeteris contractibus [illegible] attendat [illegible] esse invalidos esse si sub impossibili aut turpi conditione celebrentur [illegible] n. 17, [illegible] [illegible] idem [illegible] quemadmodum quod in ultimis voluntatibus dictis impossibilis [illegible] statuimus ob favorem [illegible] favore quod ultimis volunt. [illegible] [illegible] obtinuit [illegible] remotis similiter in matrimonio [illegible] favore [illegible] nantur, non [illegible] adiectis habentur et validus censetur matrimonius quod [illegible] dicit [illegible]. Ubi [illegible] 19 principali n. 38.

[illegible] non obstant [illegible] [illegible] contrarius [illegible] [illegible] conversi [illegible] [illegible] [illegible] distinguendum adhibendum esse [illegible] [illegible] [illegible] in Honestas [illegible] [illegible] Matrimonium Honestas [illegible] castitate servaverit [illegible] [illegible] Valere [illegible] procedere [illegible] argumentum [illegible]

Sed haec solutio reicitur [illegible] Nam supra dicta solutio [illegible] castitatis servanda [illegible] Honesta tamen [illegible] Justantia matrimonii matrimonii [illegible] contrahendo [illegible] in casu [illegible] servaverit invalide esse [illegible] th. in [illegible] 28 in fine quaestionis [illegible] praedicta [illegible] [illegible] decernimus breviter [illegible] Diversimus versari intercasum quo apponitur conditio servandi castitatem in initio Matrimonii [illegible] matrimonii [illegible] [illegible] contractus talis conditio apponitur [illegible] matrimonii [illegible] requiritur contrahentium consensus in mutua cohabitationis hoc est in [illegible] potestate [illegible] copulae, ideoque cum apposita conditio servandi castitatem [illegible] [illegible] [illegible] cohabitati[illegible] merito matrimonium reddidit nullum [illegible] cum [illegible] matrimonii [illegible] [illegible] [illegible] reciproce recte poterunt vovere [illegible] ut [illegible] ingrediantur [illegible] Religionem [illegible] [illegible] Publicio [illegible] conjugatorum [illegible] [illegible] merito tunc [illegible] cum status religionis perfectior sit quam status conjugalis merito [illegible] [illegible] [illegible] 38 et 39 [illegible] ubi [illegible] [illegible] [illegible] matrimonio [illegible] [illegible] [illegible] dicendum [illegible] matrimonio in matrimonio contracto sub impossibili [illegible] [illegible] [illegible] tem sub [illegible] impossibili [illegible] talis conditio [illegible] [illegible] ab initio consensus [illegible] talis contractus [illegible] [illegible] [illegible] interveniens. — Nec [illegible] Dicere matrimonium esse [illegible] [illegible] [illegible] [illegible] procedit favore [illegible] matrimonii [illegible] per [illegible] Nam [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] favore ultimarum voluntatum [illegible] valida [illegible] [illegible]

[illegible] interpretando [illegible] Donatio [illegible] [illegible] [illegible] [illegible] apposita [illegible] impossibilis [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Donatio [illegible] [illegible] [illegible] [illegible] Donat [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] omitto [illegible] [illegible] in [illegible] precario [illegible] de precario [illegible] de matrimonio [illegible] n. 6 [illegible] [illegible] [illegible] in [illegible] de precario [illegible] [illegible] considerandum [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 26 [illegible] [illegible] [illegible] [illegible] pecuniis [illegible] [illegible] [illegible] [illegible] [illegible] creditis [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] in l. [illegible] ff. [illegible] quemadmodum causae [illegible]
cap. 5 qui omnino [illegible] loquuntur de conditionibus appositis [illegible]
[illegible] quae de conditionibus impossibilibus loquuntur [illegible] in l. si [illegible] ff. 4
Haeredibus instituendis [illegible] in l. Huiusmodi [illegible] 5 [illegible] ff. de [illegible] tale [illegible]
conditio ff. [illegible] in secundo ff. [illegible] L. 9 [illegible] Julian
[illegible] Institut. [illegible] quae nunc [illegible] Comm. [illegible]
[illegible] cap. 33 [illegible] litt. q. [illegible] cap. 2. [illegible] cap. [illegible]

[illegible] in [illegible] interpretatur [illegible] in cap. Diaconi [illegible]
[illegible] Diaconi cum ordinantur protestati [illegible]
[illegible] postea ad nuptias [illegible] in ministerio [illegible] tamen [illegible]
tanquam sacri ordinis [illegible] ordinariis [illegible] castitatem Deo emittat [illegible]
[illegible] meminimus [illegible] clerici vel [illegible] cap. unico de voto [illegible]
[illegible] apponatur [illegible] deuet [illegible] per [illegible]
[illegible] in nostro [illegible] matrimonii vitiatur per impositam conditionem [illegible] =
Difficultati respondendum est [illegible] talem conditionem non esse [illegible]
ille qui sacris ordinibus initiatur Deo votum castitatis emittat [illegible]
sacri ordinis [illegible] praecepto ecclesiastico [illegible] clericus [illegible]
[illegible] ad sacros ordines adscendere quod quidem [illegible] in cap. [illegible]
[illegible] coniugati [illegible] in cap. [illegible]
cap. [illegible] posuit Diaconus [illegible] praedicta [illegible]
procedit tempore [illegible] quo tempore procedit praedictus [illegible]
[illegible] castitatem servare tenetur = [illegible]

= [illegible]
[illegible] =
[illegible]
[illegible]

[illegible]

+

Relectio ad tex. in cap. De infidelib. de consanguinit. et affinitate lib. 4. tit. 14.

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Scheda 49.

[illegible] Peresii ad [illegible] De [illegible]

[illegible] celebri [illegible] Decreta [illegible] anno [illegible] sub [illegible] Sexto, [illegible]

fideliter, et maxima cum [illegible] gubernavit per decem et octo annos, et sex menses, et novem dies, [illegible]

visibile, et fortunatus probavit signum, quippe ex tribus columnis [illegible] frequentabant [illegible],

[illegible] nomina [illegible] una cum [illegible] candidior [illegible]

[illegible] Felicis [illegible] sanctam [illegible] innocentissimam [illegible]

[illegible] tradunt, et tribuunt [illegible] scriptores [illegible]

[illegible] memoratissima [illegible] Petrus [illegible]

[illegible]

n.º 2

Ita [illegible] matrimonium [illegible] eidem fuerunt [illegible]

diversitas [illegible] quasi matrimonium [illegible]

de matrimonio post baptismum [illegible] separandum non esse. [illegible]

matrimonii [illegible] in gradu [illegible] canonicis [illegible] et primum est, [illegible]

[illegible] transactionibus [illegible] Clemens [illegible] de [illegible] baptizato [illegible] legitime [illegible]

[illegible] Abbatem, Felinum, Joannem Andream [illegible] Hostiensem, et alios [illegible]

[illegible] Divus Thomas q. 1. art. [illegible] Sanctus Antoninus [illegible]

mos Sanchez [illegible] de matrimonio [illegible]

[illegible]

[illegible] matrimonio [illegible]

[illegible] summa [illegible] 11. de matrimonio cap. 11. n.º [illegible]

[illegible] cap. 22. n.º 10. et [illegible], et [illegible] alii quos [illegible]

de divortiis, [illegible]

n.º 3

[illegible] matrimonium [illegible] Clemens 3. de [illegible] baptizato [illegible]

[illegible]

[illegible]

n.º 4

[illegible]

[illegible] in matrimonio [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] matrimonii [illegible] dividuus vitae consuetudinem retinens, cap. illud de praesumptionibus [illegible] de patria potestate L. 1. tit. [illegible] in triplici est differentia, ut refert Gratianus in cap. [illegible] 28. q. 1. et tenent Magister in 4. dist. 29. [illegible] Collect. [illegible] citato, V. matrimonium aliud est legitimum, aliud ratum, aliud ratum et legitimum. Matrimonium legitimum illud dicitur quod apud ethnicos et infideles legitimo consensu, et legis moribus contrahitur, quod matrimonium [illegible] legis contrahitur legitimum, et validum est, ut constat ex [illegible], et colligitur ex Divo Paulo 1. ad Corinthios cap. 7. si illus quis uxorem habet infidelem, et haec consentit cohabitare cum illo, non dimittat illam, non enim Divus Paulus infidelem appellaret uxorem, nec diceret non dimittat illam, nisi inter infideles verum, et legitimum esset matrimonium. Confirmatur hic ratio [illegible] et [illegible] L. 1. § [illegible] ff. de [illegible] § [illegible] de [illegible] nati, et [illegible] dist. fuit namque in ipso mundi exordio optimo [illegible] institutum Genesis [illegible] crescite, et multiplicamini, et replete terram, postea ab Adamo [illegible] [illegible] hoc nunc os ex ossibus meis, et caro de carne mea. [illegible] Mathei cap. 19, et [illegible] et de [illegible] in cap. [illegible] de divortiis [illegible] cap. [illegible] de [illegible] et in cap. [illegible] quem Concilium Tridentinum [illegible] 24. de matrimonio [illegible] et [illegible] hominibus [illegible] [illegible] § [illegible] ff. de accusat. [illegible] matrimonium [illegible] inter fideles quam infideles [illegible] matrimonium in [illegible] sacramentum [illegible] gratiam, ut [illegible] in cap. [illegible] de divortiis, et in cap. [illegible] baptizato [illegible] et [illegible] relatis [illegible] q. 2. art. 2. =

nº 7.

Matrimonium ratum illud est quod [illegible] legitimo consensu [illegible] te, et [illegible] Concilium Tridentinum [illegible] 24 de reformatione [illegible] cap. 1. [illegible] qui aliter, [illegible] [illegible] quod illud ut dixi est sacramentum [illegible] hoc autem matrimonium ratum confert gratiam ex opere operato. [illegible] inter [illegible] novae legis sacramentum = Matrimonium consumatum illud est quod copula carnali [illegible] et [illegible] ut constat ex [illegible] cap. [illegible] 28. q. 1. [illegible] nos, [illegible] Thomas Sanchez [illegible] et alii plures qui de [illegible] [illegible] tit. [illegible] =

nº 8.

Secundo [illegible] [illegible] [illegible] cap. [illegible] et [illegible] = [illegible] [illegible] in cap. [illegible] q. 2. [illegible] sed accidentaliter, [illegible] matrimonium [illegible] in cap. [illegible] [illegible] matrimonium quo ad [illegible] essentiales [illegible] ut [illegible] sufficiat 27. q. 1. et [illegible] [illegible] [illegible] in cap. [illegible] 27. q. 2. [illegible]

nº 9.

Denique [illegible] illud [illegible] matrimonium [illegible] sacramentum [illegible] gratiam [illegible] Thomas Sanchez [illegible] de matrimonio [illegible] et [illegible] de matrimonio cap. 10. [illegible] sacramenti [illegible] sacramentum [illegible] in cap. gaudemus de divortiis, [illegible] in cap. [illegible] [illegible] sacramentum appellat. [illegible] sacramentum [illegible] cap. [illegible] Tobiae cap. 11. Apocalipsis 17. ex Divo Paulo ad Ephesios cap. 5. [illegible] cap. [illegible] 7. [illegible] et sic [illegible] in cap. [illegible] 4. q. 2. [illegible] novae legis [illegible] in cap. ad abolendam de haereticis [illegible] Concilium Tridentinum [illegible] pro vinculo [illegible] matrimonio [illegible]

bona [illegible] c. d. itaque q. 92. [illegible] posse [illegible] superius [illegible] adducta [illegible]
erit, poterimus dicere, [illegible] quatenus matrimonium [illegible] Sacrum appellant [illegible] de [illegible]
quippe ut [illegible] ut qd ab aliquo recepit sit Sacrum novae Legis [illegible] cap. [illegible]
[illegible] valent [illegible] [illegible] inter [illegible] tam Sacrum [illegible] Cum
[illegible] ita Docent [illegible] Sanchez [illegible] et Coll. [illegible] n.º 4. = [illegible]
[illegible] doctrinae obstat [illegible] cap. [illegible] in [illegible] nullus [illegible] quoniam Sacrum [illegible]
[illegible] recipi potest: ex quibus [illegible] colligi videtur ante baptismum posse Sacrum matrimonii, et Eucharistiae recipi; [illegible]
[illegible] ab infidelibus celebratum post Sacrum [illegible] nihil interest [illegible] baptizati sint. Verum [illegible]
baptismus [illegible] [illegible] dispositiva, quippe [illegible] Decretalium auctor refert [illegible] opinionem, [illegible]
[illegible] dicendo nullum Sacrum [illegible] sine [illegible] recipi posse [illegible] Sacrum [illegible] illud [illegible]
[illegible] ex aqua, et Spiritu Sancto [illegible] introire in regnum Dei, et [illegible] sicut [illegible]

n.º 10.

[illegible] aperte [illegible] conclusiones [illegible] matrimonium ab [illegible]
fidelibus [illegible] celebratum [illegible] post [illegible] ad fidem [illegible] dissolui, [illegible] licet ab aliquibus
[illegible] signari [illegible], tamen magis placet [illegible] matrimonium [illegible] [illegible] gradibus
non sint prohibiti [illegible] divino, aut naturali, [illegible] hoc [illegible] merito prohibitos [illegible]
ut constat ex D. Paulo 1.ª ad Corinthios cap. 6. [illegible] Gaudemus de divortiis, [illegible]
cap. [illegible] 92. [illegible] matrimonium ab infidelibus [illegible] valide per [illegible] dissolvitur, [illegible]
peccatum [illegible] non [illegible] separat matrimonium cap. [illegible] cap. Gaudemus de divortiis [illegible]
Sacrum baptismum non solvunt [illegible], sed crimina dimittant [illegible]
9. 2. [illegible] cap. 29. [illegible] cap. [illegible] cap. Gaudemus de divortiis. [illegible] Paulus ad Corinthios [illegible]
[illegible] habitare cum [illegible]
[illegible] cap. Gaudemus [illegible] Praecepta [illegible]
[illegible] Basilius [illegible] cap. [illegible] n.º 4. =

n.º 11.

[illegible] Dubitatio [illegible]
[illegible] nullum aliud [illegible] scilicet [illegible]
[illegible] fidelibus [illegible] celebrationem [illegible] matrimonium
[illegible] Sacrum [illegible] valide [illegible] contractum [illegible]
[illegible] appellari potest Sacrum aut signum [illegible] vinculi indissolubilis [illegible]
[illegible] Nec quid [illegible] interest [illegible] matrimonium [illegible] valida [illegible]
[illegible] Sacrum [illegible]
[illegible] baptizati [illegible]
[illegible] matrimonium [illegible]
[illegible] matrimonium celebratum [illegible] qd [illegible] explicavimus. =

n. 12.

[illegible] obstat [illegible] ex quo [illegible] matrimonium in fidelium [illegible]
[illegible] celebratum [illegible] invalidum [illegible] Paulus [illegible] peccatum [illegible]
[illegible] in hoc [illegible] ut [illegible] infidelium sint peccata, [illegible]
[illegible] continentiae, [illegible] D. Paulus [illegible] peccatum [illegible] in hoc [illegible]
[illegible] cap. [illegible] Turrecremata in cap. [illegible] q. 1. [illegible]
[illegible] matrimonium [illegible] nec [illegible] peccatum [illegible]
[illegible] [illegible] actus moraliter boni [illegible]
[illegible] Turrecremata [illegible] D. Thomas [illegible] 9. [illegible]
ultimum [illegible] =

n. 13.

[illegible] Difficultas [illegible] cap. [illegible] habere potest [illegible]
[illegible] matrimonium [illegible] consanguinitatis [illegible] gradu [illegible]
[illegible] gradus [illegible] difficultatis [illegible]
[illegible] inter [illegible] consanguineos [illegible] hodie. [illegible]
[illegible] consanguinitatis [illegible]
[illegible] usque ad 4. [illegible] exclusive [illegible]
[illegible] quartum [illegible] gradum [illegible] numerabant, [illegible]

[illegible] ant, [illegible] cap. de nuptijs [illegible] traditis ab aliquibus [illegible] [illegible] [illegible] Sacris Canonibus inter consanguineos Collaterales ultra 3um gradum prohibita fuerunt; nam [illegible] [illegible] qui gubernavit Eccl. ex anno [illegible] usque ad annum 142. et Fabianus Papa, qui Ecclesiam rexit ex anno 237 usque ad annum 242. matrimonia inter consanguineos [illegible] [illegible] [illegible], et in 4o prohibuere, ut constat ex [illegible] cap. [illegible] 35. q. 10. [illegible] 35. q. 5. [illegible] inter consanguineos in 4o gradu de facto celebraretur, [illegible] separabatur, [illegible] [illegible] [illegible] [illegible] qui gubernavit Eccl. ex anno 336 usque ad annum 358 [illegible] inter consanguineos usque ad 7um gradum prohibuit, [illegible] cap. [illegible] 35. q. 2. [illegible] Gregorius Magnus [illegible] [illegible] ex anno [illegible] usque ad [illegible] Alexander [illegible] universalis Eccl. [illegible] [illegible] [illegible] fuit [illegible] [illegible] in Concilio Lateranensi [illegible] celebrato anno [illegible]. Innocentius 3us prohibitionem matrimonij inter consanguineos ad 4um gradum inclusive [illegible] et cap. [illegible] [illegible] consanguinitatis [illegible] [illegible] restrictio intelligenda [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible], [illegible] [illegible] [illegible], qui Innocentius 3us [illegible] ultra 4um gradum consanguineos matrimonio [illegible] impedimentum statuit [illegible] [illegible] [illegible] [illegible] absque [illegible] dispensatione prohibet matrimonia generaliter [illegible] [illegible] [illegible] [illegible] prohibet matrimonia inter consanguineos ascendentes et descendentes [illegible] lineam rectam 4um gradum, [illegible] restrictio Innocentij [illegible] consanguineis transversalibus, [illegible] de adscendentibus, [illegible] intelligi, ita docet Thomas Sanchez [illegible] de matrimonio disp. 51. n. 12. [illegible] n. 1. [illegible] ubi [illegible] errores [illegible] doctrina [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
facto explicat. = [illegible] [illegible] apparet [illegible] inter Collaterales in 3o vel ulteriori gradu [illegible] [illegible] [illegible] [illegible] [illegible] Ecclesiastico positivo, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] celebratum in [illegible] 3o vel ulteriori consanguinitatis gradu [illegible] [illegible] [illegible] validum, et firmum esse. Nec [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] directe, sed indirecte, [illegible] [illegible] [illegible] [illegible] [illegible], ut [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] ad Decretales [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] infideles [illegible] [illegible] [illegible] [illegible] Canonibus [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] tradunt Coll. [illegible] [illegible] cap. 11. [illegible] =

No. 14

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] quaestio de divortijs [illegible] [illegible] aperte colligitur quosdam fideles, qui matrimonium [illegible] cum infidelibus [illegible] ad nos [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] in gradu prohibito [illegible] [illegible] Innocentius 3 [illegible] [illegible] [illegible] [illegible] [illegible] concedit, ut [illegible] matrimonia [illegible] in gradu prohibito [illegible] validum, et firmum esse = [illegible] difficultas [illegible] [illegible] [illegible] examinari [illegible] [illegible] [illegible] [illegible] affinitatis gradus [illegible] [illegible] [illegible] [illegible] [illegible] lege naturali, aut divina; [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] positivum [illegible] [illegible] [illegible] dispensari [illegible] [illegible] [illegible] [illegible] lege [illegible] Coll. de [illegible] [illegible] cap. 6. § 10. n. 4. [illegible] [illegible] 11. [illegible] cap. 11. n. 5. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] matrimonium inter infideles celebratum in gradu lege positiva prohibito validum et firmum [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] ad vitandum [illegible] Pontificis dispensatione, [illegible] [illegible] inter fideles tale matrimonium celebrari [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Coll. [illegible] [illegible] cap. 6. § [illegible] n. 5. [illegible] [illegible] Thomas Sanchez [illegible] de matrimonio disp. [illegible] n. [illegible] [illegible] [illegible]

No. 15

[illegible] in gradu a lege Canonica prohibito, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] legitimi, et respondit Innocentius 3us [illegible] [illegible] legitimos [illegible] [illegible] tale [illegible] validum, et firmum, [illegible] [illegible] [illegible] extat [illegible] [illegible] [illegible] [illegible] Volumine, [illegible] [illegible] [illegible] [illegible] legitimationem [illegible] [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] Benevenit [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

Item Unica [illegible] Vicarii, qui [illegible], aut quam [illegible] hanc [illegible] legitimam [illegible] in [illegible] asserit. extat [illegible] scripto legitimos esse filios ex matrimonio inter infideles celebrato post eorum ad fidem conversionem, ex quo [illegible] apparet in [illegible] matrimonium utile et invalidum esse. quam difficultatem ut dissolvant Interpretes plura [illegible] cumulant, variasque [illegible] tradiderunt, ut constat ex traditis a Barbosa [illegible] ad textum in cap. Lingui qui filii sint Legitimi: qui triplicem adducit intellectum. et ex Panormitano eodem, qui duplicem [illegible] ex Hostiensi, et fere ceteris omnibus antiquioribus. Verum plurimis omissis breviter existimamus sensum [illegible] in dicto cap. fin. qui filii sint Legitimi sequentem esse, [illegible] infideles matrimonium [illegible], et postmodum prima coniuge repudiata alterum coniugium cum altera celebrasse, et prolem [illegible] suscepisse, quo casu cum dubium sit an filii ex hoc secundo matrimonio nati sint Legitimi responsum redditur [illegible] verbis [illegible] quod quidem demonstrat [illegible] filios legitimos esse [illegible], quod verbum appositum propter fuit, quia matrimonium [illegible] cum secunda uxore, vivente prima invalidum [illegible] rigore [illegible] filii debent esse illegitimi [illegible] in cap. gaudemus de divortiis. [illegible] inter [illegible] matrimonium [illegible] bona fide, hoc bona fides, et opinio [illegible] sufficit ad hoc ut proles legitima iudicetur [illegible] in cap. ex tenore cum vulgatis qui filii sint Legitimi, ita similiter [illegible] matrimonium [illegible] existimant [illegible] uxorem repudiare posse, et [illegible] ex hac filios habuerunt, Legitimi iudicantur, [illegible] credebant Legitime posse [illegible] post [illegible] repudium [illegible] coniugi; quod licet de iure [illegible] verum, tamen de aequitate locum habet, [illegible] significat illud verbum [illegible] quam solutionem tradit Panormit. in dicto cap. fin. qui filii sint Legitimi n. 4 [illegible]. =

n.º 16.

Ex qua solutione infertur [illegible] explicatio ad illam celebrem quaestionem: an [illegible] olim licitum fuisset repudium quo a vinculo libero manente utroque coniuge, itaut ad alias nuptias transire posset. In qua quaestione [illegible] difficilis [illegible] quod circa Hebraeos observabatur, postea de eo quod apud Gentiles ante [illegible] evangelicam [illegible], erit sermo. Igitur plures [illegible] hanc rem [illegible], et opiniones. Sit [illegible] quae docet Hebraeis [illegible] fuisse repudium [illegible] sed tantum [illegible] ad vitanda maiora mala. Pro qua [illegible] facit id quod [illegible] Christus [illegible] Matth. cap. 19 [illegible] Moyses ob duritiam cordis vestri permisit vobis dimittere uxores vestras, ab initio autem non fuit sic. [illegible] facit [illegible] in cap. gaudemus [illegible] divortiis. Ex quo constat [illegible] repudium antiquis Hebraeis [illegible] licitum, quam [illegible] in cap. [illegible] [illegible] Card. [illegible] in dicto cap. gaudemus n. 3. Navarr. [illegible] n. 3 [illegible] Sentent. [illegible] 16. n. 2. [illegible] cap. 7. § 3. n. 4. [illegible] cap. 11. n. 3. et alii plures [illegible] = [illegible] docet repudium fuisse [illegible] promulgat. [illegible] licitum, vel potius [illegible] mala [illegible] quam defendunt [illegible] q. 2. art. 2. et [illegible] Richardus [illegible] art. 3. = [illegible] docet [illegible] licitum fuisse Hebraeis [illegible] cui repudium [illegible]. Probatur [illegible] Deuteronomii cap. 24 [illegible] si acceperit homo uxorem, et habuerit eam, et non invenerit gratiam ante oculos eius [illegible] scribet libellum repudii, et dabit in manu illius, et dimittet eam de domo sua. idem colligitur ex Malachia cap. 2. [illegible] Deus Israel. [illegible] [illegible] permittebatur [illegible] debitam [illegible] Isaiae cap. 54. [illegible] repudium [illegible] in cap. [illegible] Malachiae, [illegible] repudium [illegible] licitum et sine peccato [illegible] dispensatione divina [illegible] Panormitanus in dicto cap. gaudemus n. 1. [illegible] antiquiores [illegible] Thomas Sanchez [illegible] n. 7. [illegible] cap. 4. Enriquez [illegible] cap. 8. [illegible] sit probabilis [illegible], tamen [illegible] 4 [illegible] Thomas Sanchez [illegible] omnium.

n.º 17.

[illegible] [illegible] quod [illegible] repudium [illegible] 12 [illegible] [illegible] repudium [illegible]

[illegible] ita tradit Soto in 4º d. 33. q. 2. ar. 2. et Thomas San. [illegible] n. 8. = Post [illegible]

certissime tenendum [illegible] nec judeis, nec aliis infidelibus permitti repudium, ac si illud minime [illegible] illo Mathei cap. 19. [illegible] ad duritiam cordis vestri permisit vobis dimittere uxores [illegible]

fuit sic, Dico autem vobis, quia quicunque dimiserit uxorem suam, nisi ob fornicationem, et aliam duxerit, mechatur [illegible] dimissam duxerit mechatur. [illegible] cap. gaudemus [illegible] de divortiis. = [illegible]

precepti Evangelici [illegible] constringere infideles [illegible] baptizentur, nec ad alia precepta [illegible] evangelii [illegible] baptismus [illegible]

[illegible] matrimonii [illegible] ut [illegible] infideles ad [illegible]

tringi [illegible] quae extant [illegible] de divortiis. =

n. 28.

Deinde [illegible]

gentilis 2. 28. q. 1. [illegible] Si quis gentilis gentilem uxorem dimiserit ante baptismum, post baptismum [illegible] erit eam habere, vel non habere. [illegible]

nere, aut permanere. [illegible] posterioribus [illegible] habere, vel non habere, [illegible]

[illegible]

ad [illegible] valid[illegible] ante [illegible] cap. [illegible]

[illegible] matrimonii [illegible] infideles [illegible]

[illegible]

habeat [illegible]

[illegible] dico [illegible]

[illegible] fidem [illegible]

[illegible] Catholicam [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] ratione [illegible]

n. 29.

[illegible]

[illegible] fidei Catholicae [illegible]

[illegible]

[illegible]

[illegible] Thomas Sanchez [illegible]

[illegible]

[illegible]

[illegible] matrimonii [illegible] infideles [illegible]

[illegible]

[illegible]

[illegible] Thomas Sanchez [illegible]

n. 30.

[illegible] Si quis [illegible] 28. q. 2. [illegible] ante baptismum [illegible]

[illegible] post baptismum [illegible]

[illegible] matrimonii [illegible]

[illegible]

Conversi ad fidem et prius matrimonio in infidelitate celebrato dirimitur, et aliud de novo inire [illegible] Horum difficultatum dissolvendarum, utque in amicitiam redigant [illegible] in d. cap. si quis 1° 28. q. 2. et cap. de infidelibus 2°. eadem causa et q. et cap. si quis gentilis 28. q. 2. varia omnino [illegible] ut [illegible] Archidiaconus, et Turrecremata in d. cap. si quis 1° 28. q. 2. n° 3. Basilius Legionensis [illegible] de matrim. c. [illegible] n° 16. et 19. Thomas Sanchez [illegible] 7. de matrim. disp. 73. n° 5. cum omnes licet varios [illegible] adducant, nobis non placent; [illegible] hac arbitramur sequendam esse intelligentiam, quam tradit Augustinus Barbosa in collect. ad textum in d. cap. 28. q. 2. qui n° 2. [illegible] 2 existimat, discrimen esse constituendum inter hos casus quo [illegible] ad fidem habent uxorem infidelem volentem secum habitare, et inter eos quo [illegible] aliquis ex illis ad fidem convertitur, [illegible] infidelitate permanens aut omnino discedit, aut habitare vult cum contumelia creatoris, aut [illegible] ad peccatum, itaut [illegible] procedat, ex [illegible] haberet [illegible] aliud difficilis in d. cap. 2. 28. q. 2. [illegible] in d. cap. quanto et in d. cap. gaudemus de divortiis [illegible] et [illegible] in d. cap. 2. 28. q. 2. et [illegible] eleganter in cap. si infidelis 2. 28. q. 1. quam distinctionem ampliat [illegible] disp. [illegible] quest. unica ar. 4. colum. 5. vers. [illegible] canonis.

[illegible] quae [illegible] Decidendi [illegible] inferuntur inter [illegible]

n° ult.

[illegible] difficile Alexandri [illegible] in cap. [illegible] 2. de divortiis [illegible] et quaereret utrum mulier [illegible] vel alio crimine a viro [illegible] limitat [illegible] sequentes [illegible] nisi [illegible] Statis [illegible] traxerit, ex quibus [illegible] matrimonium [illegible] inter fideles, [illegible] alter ex illis [illegible] infidelitatem [illegible] ad infidelitatem [illegible] separari, verum tamen [illegible] aliud inire conjugium, [illegible] similiter [illegible] matrimonium [illegible] inter infideles si alter ex illis ad fidem convertitur, [illegible] potest [illegible] ad aliud [illegible] [illegible] facilime [illegible] discrimen [illegible] inter hos casus quo matrimonium [illegible] inter fideles [illegible] alter ad [illegible] [illegible] tunc [illegible] separatio [illegible] ad aliud [illegible] transitus denegatur, [illegible] [illegible] [illegible] inter eos quo matrimonium [illegible] inter infideles [illegible] alter ad fidem convertitur, [illegible] aliud inire conjugium si [illegible] infidelitate [illegible] [illegible] creatoris contumeliam [illegible] sufficient [illegible] Omnipotentis [illegible] Virginis [illegible] hic [illegible]

+

Scheda 50.

Relectio ad Cap. Super eo 2
de Consanguinitate, et affinit. Lib. 4. tit. 14.

Relectio ad titulum [illegible] Decretalium [illegible] de consanguinitate et affinitate recitata [illegible] anno [illegible]

EX Nostrae Salmanticensis Academiae praescripto [illegible], nobilissimum [illegible] hoc quadragesimali tempore [illegible] explicandum, et enodandum assignatur titulo de consanguinitate et affinitate [illegible] in 4° Decretalium Gregorii 9 [illegible] utinam tempus illis integris examinare liceret, [illegible] impossibile iudicans, inter novem capitulos Decretales, quae [illegible] continentur, explicandum [illegible] tam nobile et elegans Urbani 3ⁱ Decretum [illegible] [illegible] licet meo [illegible] [illegible], quoniam [illegible] eiusdem [illegible] [illegible] accommodatam [illegible]. =

n° 1°

[illegible] ut morem nostrum observemus, exordiamur ab [illegible], quod ex [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible]

n° 2

[illegible]

[illegible]

n° 4

[illegible] efficaciam habent, nec [illegible]

Sponsalia de futuro, immo eodem modo dissolvi queunt, [illegible] quemadmodum Sponsalia de futuro dissolvuntur supervenientem affinitatem, ita similiter Sponsalia de presenti dissolvi debent per eandem supervenientem affinitatem, quod probatur ex eleganti [illegible] in cap. ex litteris B. [illegible] qui cognovit consanguineam uxoris suae, [illegible] sponsalia quae verba de presenti fuerunt [illegible], ut patet ex illis verbis [illegible] desponsaverat in uxorem, per supervenientem dissolvi, [illegible] Sponsalia de presenti majoris virtutis, et [illegible] non sunt, [illegible] Sponsalia de futuro [illegible] eodem modo [illegible] et consequenter quemadmodum Sponsalia de futuro per subsequentem affinitatem dissolvuntur, sic etiam dissolvi debent sponsalia de presenti, igitur [illegible] extat. =

n.° 5.

Quibus dubitandi rationibus non obstantibus, nec [illegible] facientibus, verissima et nostri [illegible] decisio quae docet Sponsalia de futuro dissolvi per supervenientem affinitatem, Sponsalia autem de presenti minime, cujus [illegible] ut veram [illegible] percipiamus aliqua valde necessaria [illegible] praemittere expedit; [illegible] sciendum breviter est Sponsalia, quae futurarum nuptiarum mutua promissio sunt cap. [illegible] 5. cap. [illegible] sponsalibus [illegible] L. 1. ff. de sponsalib. L. 1. tit. 1. [illegible] dupliciter [illegible]. 1.° verba de futuro, id est verba ex [illegible] continens non [illegible], sed futurum. 2.° verba de presenti [illegible] extrinsecus quae sponsalia de presenti [illegible] sunt propie sponsalia, 2.° [illegible] de presenti improprie, [illegible] sponsalia [illegible] verba [illegible] docent [illegible] cap. [illegible] cap. [illegible] 5. cap. [illegible] 9. cap. [illegible] sicut ex litteris [illegible] cap. [illegible] 31. de [illegible] tradit Petrus Gregorius de sponsalibus [illegible] cap. 1. n.° 6. [illegible] de matrimonio disp. 1. n.° 3. [illegible] de sponsalibus [illegible] n.° 6. et alii plures [illegible]. = [illegible] Sponsalia [illegible] natura [illegible] requiritur [illegible] [illegible] [illegible] sponsalibus [illegible] de futuro [illegible] litteras [illegible] [illegible] anni [illegible], cap. accessit 5.° cap. ad dissolvendum [illegible] de desponsatione impuberum [illegible] sponsalibus [illegible] ff. de sponsalibus [illegible] Thomas Sanchez [illegible] de matrimonio [illegible] ad matrimonium [illegible] quatuordecim anni sunt necessarii [illegible] duodecim cap. [illegible] de desponsatione impuberum L. 4. ff. de ritu nuptiarum L. [illegible] docet [illegible] de sponsalibus [illegible] [illegible] in matrimonio [illegible] sponsalibus [illegible] illud examinaret, [illegible] [illegible] =

n.° 6.

Rursus sciendum est ex sponsalibus de [illegible] impedimentum [illegible] licet [illegible] temporibus impedimentum publicae honestatis [illegible] ut [illegible] alterius sponsi [illegible] cap. [illegible] 11. cap. [illegible] 27. [illegible] docent Thomas Sanchez [illegible] de matrimonio disp. [illegible] Basilius [illegible] cap. [illegible] [illegible] de desponsatione impuberum [illegible] = Similiter [illegible] ex sponsalibus de futuro [illegible] affinitatis [illegible] nisi copula [illegible] sua voluntaria [illegible] cap. discretionis [illegible] consanguinei [illegible] caro efficiuntur [illegible] cap. [illegible] Sanchez, Basilius, et [illegible] [illegible] fert et [illegible] Basilius [illegible] cap. 96. [illegible] =

[illegible]

[illegible] [illegible] accedamus [illegible] [illegible] de quibus consule [illegible] de [illegible] [illegible] Thomas [illegible] [illegible] [illegible] cap. [illegible] [illegible] [illegible] [illegible] Sanchez [illegible] [illegible] licet [illegible] Concilium [illegible] Lateranense [illegible] generali [illegible] in cap. [illegible] affinitatem [illegible] [illegible] matrimonio [illegible] ad [illegible] gradum [illegible] [illegible] matrimonio cap. 9. Thomas Sanchez [illegible] de matrimonio disp. [illegible] n.° 3. = [illegible] cap. [illegible] [illegible] [illegible] affinitatis [illegible] [illegible] [illegible] copula [illegible] licita, [illegible] illicita affinitas [illegible] [illegible] unam carnem efficiantur [illegible] copula affinitatem [illegible]

[illegible] qui contraxit consanguineam [illegible] affinitatis ex copula illicita [illegible] ex Concilio Trid.º usque ad 2 gradus exclusive tantum extenditur [illegible] Contat, ita docent [illegible] Sanchez [illegible] Cesarei [illegible] propter [illegible] de Richardo [illegible] de gradibus cognat. c. 31. = Hinc [illegible] plura inferri recte [illegible] poterant, verum [illegible] libenter omittimus [illegible] concilii [illegible] Barbosa [illegible] in tractatu [illegible] de sponsalibus [illegible] in summa [illegible] et plures alios [illegible]

nº 8.

[illegible] sponsalia de futuro [illegible] promissio [illegible] de futuro [illegible] contrahenti [illegible] tales promissio de futuro [illegible]

[illegible]

nº 9.

[illegible] Quamcumque [illegible] tamen hoc cessat [illegible] ut [illegible] admittere noluerint [illegible] patientia [illegible] [illegible]

nº 10.

[illegible] sponsalibus de futuro [illegible] superveniens [illegible] impedimentum affinitatis [illegible] talia sponsalia [illegible] de futuro [illegible] affinitatem [illegible]

nº 11.

[illegible] qui contraxit consanguineam [illegible] superveniens affinitas [illegible]

[illegible] assent. [illegible] ex litteris [illegible] sponsalibus de presenti [illegible]
[illegible] de futuro, [illegible] expressionibus textus [illegible] authoritate [illegible] renuntiat [illegible]
[illegible]

Ex quibus [illegible]

n. 12

[illegible] habetur in cap. [illegible] de eo qui cognovit consanguineam uxoris suae [illegible]
[illegible] cum [illegible] sponsalia contraxit, postmodum ipsius matrem [illegible]
[illegible] cognovit [illegible] ut matrimonium cum sponsa [illegible] voluit [illegible]
[illegible] matrem sponsae suae cognovit [illegible]
[illegible] maior [illegible] [illegible]

matris [illegible] sponsae [illegible] sponsam cognovit [illegible] vel post [illegible] vel [illegible]
[illegible] qui cognovit sponsam ante [illegible] matrimonium accipere [illegible]
[illegible] sponsalia de futuro [illegible]
[illegible]

n. 13

[illegible] Veramente [illegible]
[illegible] tradunt [illegible]
illud [illegible] ad matrem [illegible] puellis [illegible] cognovit [illegible]
[illegible] uxorem accipere [illegible] sponsam [illegible] cognoverat [illegible] habeat [illegible]
[illegible] ex copula [illegible] matrimonio [illegible]
[illegible] cap. [illegible] de eo qui cognovit consanguineam uxoris suae [illegible]
[illegible] cognovisset sponsam [illegible] matris uxorem ducere [illegible]
[illegible] sponsam [illegible] frustra [illegible]
[illegible] ad hoc ut matrem [illegible] posset [illegible] habere. = [illegible]
[illegible] sponsam [illegible] posset [illegible] puellis [illegible] matris
[illegible] uxorem accipere [illegible] supervenientis [illegible] matris [illegible] illud [illegible]
[illegible] cap. [illegible] de eo qui cognovit consanguineam uxoris suae [illegible]
[illegible] ut [illegible] consanguineam [illegible] vulgatis. =

n. 14

[illegible]
[illegible] matris [illegible]
[illegible] affinitatis [illegible] matris [illegible] ex dictis [illegible]
[illegible] debitum coniugale [illegible] matris [illegible] carnaliter cognoscendo [illegible] habet [illegible]
[illegible] cap. [illegible] cap. [illegible] de eo qui cognovit consanguineam uxoris suae [illegible]
[illegible] habet sponsam [illegible] debet habere [illegible] quoad debitum coniugale [illegible]
[illegible] matri carnaliter [illegible] supervenientis affinitatis [illegible] sponsalia [illegible]
copula [illegible] fuerint effecta [illegible] sponsae [illegible]
accedere ad sponsam [illegible]
[illegible] Abbas Panormitanus [illegible] =

n. 15

[illegible] ex [illegible]
[illegible] de eo qui cognovit consanguineam uxoris suae [illegible] habet [illegible]
[illegible] sponsalia de futuro [illegible] extraordinaria [illegible]
[illegible] consultis [illegible] nulla [illegible]
[illegible] sponsalia [illegible] fuerunt [illegible] advertit [illegible]
[illegible] sponsa [illegible]
[illegible] de futuro [illegible] videtur [illegible]
[illegible] difficultas [illegible] copulae [illegible]
[illegible] sponsalia de futuro contraxerunt [illegible] sponsalia, quae erant de futuro, fuerunt effecta de presenti
[illegible] vulgatis de sponsalibus [illegible] tradunt [illegible] de sponsalibus [illegible]
[illegible] Basilius [illegible] de matrimonio [illegible]

[illegible] etiam sponsalia sint matrimonium [illegible] per supervenientem affinitatem dissolvi [illegible] inter sponsos [illegible]

n. 6

Adversus [illegible] obstat difficultas [illegible] tio [illegible] excuius [illegible] aperte [illegible] extraordinariam pollutionem [illegible] mulierem impedire matrimonium postea [illegible] fraternitatis [illegible] illa pollutio [illegible] impedire matrimonium [illegible] cum sponso [illegible] sponsalia de futuro in matrimonium transierint [illegible] [illegible] apud interpretes [illegible] Thomam Sanchez [illegible] Panormitano [illegible] matrimonium [illegible] maritalis [illegible] sponsalia de futuro transierint in matrimonium [illegible]

n. 17

Deinde [illegible] Sponsalia [illegible] [illegible]

n. 18

[illegible] Sacramentum [illegible] [illegible] [illegible]

ne [illegible] decisio, nec ex[illegible], et authoritate [illegible] [illegible] [illegible]; merito [illegible] [illegible] authoritate
[illegible] quoniam [illegible] [illegible] [illegible] volumen relat[illegible] tunc [illegible] authori[illegible] habens, [illegible] ipsomet
ab aliquo [illegible] [illegible] [illegible] [illegible] sunt, ut tradit Medices de [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] mulierem [illegible] [illegible] Juan [illegible], [illegible]
uxore habitum, [illegible] habitum, ut patet ead. auth. [illegible] ducant in [illegible], et [illegible]
eos legitimos uxores, [illegible] [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] conservi [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] sponsalia [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] nuptias, [illegible] [illegible], [illegible], ut post [illegible] [illegible] [illegible]

[illegible] Denique [illegible] [illegible] venit aliud [illegible] elegans [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Rodericus [illegible] [illegible] [illegible] ad Vota transire [illegible]

[illegible]

Tertio [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] sponsalia [illegible] [illegible]

[illegible]

412

921

Relectio ad Cap. si qua mulier 1. de divortiis lib. 4. tit. 19.

Scheda 51.

Sequitur explicatio ad textum in cap. si quam mulier

vel in textu c. si quam mulier

31 q. 1a

N. 1. Ut noster textus melius modo percipi, seu explanari valeat oportet devenire ad illam ancipitem seu dubiam quaestionem communiter ab interpretibus in presenti agitatam, s[cilicet], an sicuti vir occidens uxorem impeditur contrahere iure, similiter etiam uxor viri interficiens arceatur a matrimonio contrahendo:

N. 2. Cui in quaestione duplex est sententia altera quidem negativa, altera vero affirmativa, negativam hoc est uxorem maritum interficientem non impediri matrimonium celebrare tuentur Sylvester verbo matrimonium 7 q. 6. dicto 1. Ledesma de matrimonio 2. tomo p. 4. q. 62 art. 1. paulo post principium. Armilla verbo matrimonium n. 8. Toletus in Suma lib. 7. c. 15. n. 8. Emanuel Saa in suma verbo matrimonium de impedimentis non dirimentibus n. 6. Barbosa in cap. interfectores 33 q. 2. Thom. Sanch. et alii ab eo relati lib. 7. de impedimentis disput. 26. n. 6. Quorum sententia probatur ex eo quia in rebus odiosis non valet argumentum de maiori ad minus neque de equali ad equalem cap. sicut 27 de prebend. et dignitat. lib. 6. cap. susceptum 6. de rescript. in eodem lib. cap. 1. cap. si qui § ille vero de filiis presbit. cum res odiosas restringi valeant, cap. is q. de sent. excom. lib. 6. cap. odia restringi 15 de reg. jur. Sed tantum est statutum aut stabilitum impedimentum matrimonii contra maritum uxorem interficientem, d. cap. interfectores 33 q. 2. cap. admonere eadem q. ergo illud impedimentum sicut militet eadem ratio non debet extendi ad uxorem maritum occidentem.

+

n° 3. Affirmativa est quia per eit [illegible] non solum [illegible]
interficientem à matrio contrahendo impediri, verum etiam
uxorem maritum occidentem, et per consequens [illegible]
impedimentum uxoricidij, verum etiam viricidij stabilitum [illegible]
stabilitum à iure esse arguebantur. Palud. in 4 d. [illegible]
q. art. 2. n° 10. Sotus in 4. dist. 37. q. unica art. [illegible]
vers. Simpliciter, item, Enriquez lib. 12 de matrimonio [illegible]
n° 1. ad finem. Ludovicus Lopez 2 p. [illegible]
de matrio cap. 46. § circa secundum impedimentum
Filiarcus de offo sacerdotis tomo 1° p. 2.a lib. 2. cap.
Dinus Antoninus 3 p. tomo 1. c. 16. § 4. Navarrus in
suma c. 22. n. 74. Hugolinus de sacramentis [illegible]
matrio cap. 20. n. 8. Palacios in 4. dist. 34. disp.
ad finem in 3° impedim.to vers. sunt qui putant, Basil.
et alij quos ipse refert lib. 6. de impedim.tis impedientibus
cap. [illegible] n° 2. Cui opinioni expresse auxiliatur
n. [illegible] et [illegible] in cap. [illegible] 3. q. 1.a [illegible]
quibus constat uxorem consiliatricem mortis mariti
sui, seu conantem eum occidere, licet effectus [illegible]
nihilominus absque spe coniugij manere mortuo marito
rigitur à fortiori arceri a [illegible] deiugio debet [illegible]
homicidium mariti perpetravit. Exantiqu Basilius

n. 4 ubi supra. — Hijs sic tan pro parte affirmativa quam negativa
[illegible] compatibus retenta affirmativa tanquam verissima
negativae s. uxorem maritum interficientem non impediri [illegible]
monium celebrare [illegible] ex [illegible] in cap. interfectores 33 q.
et cap. admonere eademque [illegible] facilimo negando satisfaciendum
dicendo [illegible] et maritum et uxorem unum corpus
unamque personam representare [illegible] in c. [illegible]
quos Deus 32 q. 2. adeo ut per matrimonium talis individuitas
trahatur ut minime videantur contrahentes separare, [illegible]
[illegible] [illegible] c. minime 27 [illegible]

ff. de divin. nupt. l. 4. §. Sus nate de sub. et sul. tto. 2. p. 4. quae coniunctio illum debet operari respective quam mariti. nam cum maritus uxorem interficiens 3a matrimonium faciat et intendat illud dissolvere merito absque singii [illegible] debet manere, dicens Thom. in additionibus ad 3. p. s. Enrig. Q. # 22 de matrio c. 2. n. 44 ad §. Cum resolutis. Hec probatio separationis et prohibitionis ratio attenditur simul in uxore maritum interficiente quoniam cum uxor quae in mortem viri machinata et fecit 3a sacrum matrij illud perimere et dissolvere intendens, ideo iusta de causa eiusdem matrij post et alterius singij [illegible] debet. = Ex qq facile colligi pot. solutio ad 5.o, [illegible] negatur addita, cum in d. cap. interfectores et d. c. admonere, quoniam si uxor maritum interficere intendens puniatur etiam animus et conatus solum subsistat et ad §. N puniri debet quanto magis puniri debet si homicidium perpetravit, uxoricida opinio Sylvestri et aliorum [illegible] affirmantium, et [illegible] uxoricidium [illegible] in magis [illegible] me [illegible] Q. # 6. de matrio [illegible]

n.o 9.

Ex eodem disputationis filo infertur sufficientem esse causam ut uxor possit divertere, si vitae ipsius maritus insidietur, tentans veneno, aut alia via ipsam dirimere l. consensu et auth. nono sl. C. de repudiis. = Preterea quia cum capitalium sit, rat. eius, denegatur viro spoliato restitutio cap. litteras C. extranomissa, de rest. spol., nec de iure aliquis [illegible] [illegible] 3a quod uxor vitae viri insidias parat quod ipsum perimat [illegible] [illegible] expeditum gaudere. Hanc questionem [illegible] doctores [illegible] et constat 1.o quia ex. in d. c. litteras, c. extranomissa de rest. spoliat. c. 1. [illegible] consultum. quod divertij rat. [illegible] sunt loquuntur expresse de uxore virum timenti, et quia [illegible] et mariti sint correlativa ac proinde quod dicitur de posito in uxore, [illegible] dispositum in marito, [illegible] C. de ind. [illegible] [illegible] quod utrique correlativorum [illegible] et eadem ratio minime [illegible] [illegible] in [illegible] [illegible] correlativis n.o 8. et [illegible] [illegible] in hoc casu manifeste constat [illegible] rationibus [illegible] quia uxor nequit virum coercere, ipsumque punire, ac vir uxorem. 2a et fortior probat ea cap. quid quid 3. [illegible] quod [illegible] [illegible] quia mulier [illegible] [illegible]

f. sibi acusaverit, ut est (excepta causa fornicationis) praelig...
atque ita docent Tancredus quem refert et sequitur glosa c...
ubi alio de divortijs etc. quem admodum in fl. de sus...
et ibi Hostiensis ad finem: Antoninus 2. p. illud autem
in fine: ...

Ceterum absque dubio dicendum est
item de marito cuius vitae insidias parat uxor, poterit enim
...

Ubi eius... Contrarij.

n.° 6.

...ratione eius sevitiae divertere quod aliter nequit compescere...
sibi quae adversus insidias illius consulere, in comperto...
et quia ius tale unicuique concedit facultates vitandi mortis p...
riculum, nec contractus matrimonij obligat ad cohabitationem cum tan...
vitae discrimine... quod discrimen ex culpa uxoris
~~...~~ cuius ratio est quia militat in utroque coniuge...
cum alter alterius vitae insidiatur, nec alteri coerceri pot...
nisi divortio facto. Quare cum vir et uxor sint correlativa
ut ... animadvertimus, dispositum quae in iuribus ... alleg...
... ratione eius vitae mariti ... ... in mari...
... eandem uxoris insidias patientis. ... ...
loquuta fuisse de uxore eo quod frequentius sit viri in uxorem ...
..., et raro accidat talis sevitia uxoris in virum, ...
... in ... quaestione ...
legem Thom. Sanchez ... de matrimonio c. 29 n.° 20. ...
... nihil oberit
... ratio sive fundamentum ~~...~~
pro ... supra animadvertimus.

Nec faciat negotium ...

n.° 7.

in l. cap. quidquid 32 q. 2.a quam simul pro contraria opinione ~~...~~
~~...~~ ... expendimus, nam ... venit
... quando sevitia uxoris talis est ut absque periculo
maritus non possit cum illa cohabitare, tum quia exceptio illa
fornicationis non excludere alios casus a iure exceptos, ... tam
et ... ... Thomas Sanchez loco de sacram...
... de divortio disp. 2. n. 2. explicantur testimonia
... Matth. c. 5. et 19. quod refertur in cap. 2 ...
... Dominus... licere divortium excepta ...
fornicatione, ... quare eo loco minime convincitur nullam
aliam ~~...~~ causam divortij esse, sed nullam aliam esse ...
... quae in alijs iuribus ecclesiasticis ius divinum explicat ...
locis ... quales sunt quae referuntur
a Thom. Sanch. ... loco ... precedenti.

Ut ... nemini licet (excepta causa fornicationis) uxorem dimittere:

Secundo [illegible]

Quoniam sola fornicatio carnalis est sola causa perpetuae dimissionis [seu] divortij absoluti: ergo Christus loquebatur de divortium [illegible] nisi quod animo contrahendi separationis perpetuae sit ... divortium 3. [illegible] de [illegible] ibi divortium non est verum nisi quod animo perpetuam dissolvendi divisio sit. = At propter alia crimina non est licita separatio, nisi dum durant. Si enim coniux [illegible] sit aut ad peccandum alliciat coniugem quam ob causam hic [illegible] vertat, [illegible] et inductio [illegible] matrimonij [illegible] Bellarminus lib. 1. de matrimonio c. 24 § secunda causa, et Palacios 4. dist. 35. col. [illegible] fol. 598. Sedes [illegible] 4. q. [illegible] art. 6. § tertia Socin. Maldonado c. 5. § 9. de[illegible] de matrimonio q. 62 art. 5 in solut. ad 4. = [illegible] ut [illegible] ut tenebras [illegible] Objectio [illegible] Christum ibi loquutum fuisse de causis dimissionis [illegible] altero coniuge, et hinc solvitur objectio, si enim opponat licitum esse divortium perpetuum quod de consensu ambo [illegible] [illegible] insuper loquutus fuisse de causis quae stando in iure [illegible] et divino sunt perpetui divortij parientes qualis est fornicatio carnalis. ~~[illegible]~~ ~~[illegible] perpetuam [illegible]~~ ~~[illegible] facile cognoscit~~ Atque hinc infertur [illegible] cur ob fornicationem concedatur divortium perpetuum, ob alias vero causas solum ad tempus quo durant, quoniam cum causa fornicatione [illegible] & cedat ab ipsa coniugis natura, eo quod fides promissio [illegible] violabatur ideo [illegible] sit perpetua [illegible] et dimissio. Caeteras autem causas cum originem non [illegible] [illegible] ideo perpetuae non sunt. ac proinde tantum [illegible] ipsae permanent permittitur divortium. =

His expositis [illegible] superest, ut iam ad [illegible] solum accingamur [illegible] ~~satisfacere~~ superiori difficultati [illegible] de coniugio leprosorum satisfacere, decernit [illegible] uxore cohabitantem ob causam infectionis ~~[illegible]~~ dimittere, nec e contra, quod ~~[illegible]~~ Marito [illegible] siquidem dum adest iusta causa [illegible] inter coniuges ~~[illegible]~~ divortium consistere potest. et quae maior lepra ut divertatur. = Respondetur [illegible] Thom. [illegible] ~~[illegible]~~ & in [illegible] dist. 45 n. 1. in [illegible] [illegible] divortium posse inter coniuges consistere ~~[illegible]~~ quod ex [illegible] non cedit in detrimentum,

Quod in [illegible] iure coniugij et equitati consentaneum est ut contrahentes separentur gratia actionis et perfectionis status [illegible] in c. [illegible] [illegible] nisi [illegible] transierit aut [illegible] [illegible] [illegible] miserit vir potest et debet de monasterio revocari. [illegible] communis [illegible] cap. coniugatus et [illegible] de conversione coniugatorum. =

N.o 9.

difficile [illegible] et

coniugis [illegible] explicatio [illegible] [illegible] in debiti redditione

redendis notabile

notabilis [illegible] periculum imminere [illegible]
[illegible] minime compelleretur maritus uxore [illegible]
[illegible]. Secus si [illegible] [illegible] in
grave [illegible] quoniam tunc divortium non consistet
Qua adhibita distinct. facile [illegible] [illegible]
n° 20. [illegible] in d. cap. [illegible] [illegible] lo in casu quo
[illegible] [illegible] debiti nullius detrimenti [illegible] ex coniugibus [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible]
[illegible] inter contrahentes divortium quia nullus obligat
per matrimonii contractum ad reddendum debitum, [illegible]
[illegible] [illegible] in columnis. Hanc [illegible] amplectuntur, illam
[illegible] [illegible] in 4 [illegible] 32 q. 1. n° 8 [illegible]
[illegible] argumento 1. Contra [illegible] [illegible] q. 1 art° 2 n° 1
Almain [illegible] [illegible] q. unica art° 1. n° [illegible]. Caietanus [illegible]
[illegible] [illegible] matrimonii cap. [illegible] in [illegible] matrimonii [illegible]
[illegible] de Victoria in [illegible] matrimonio n° 270 [illegible]
[illegible] [illegible] [illegible]
[illegible] art° 1 [illegible] 24. column. [illegible]
[illegible] [illegible] in [illegible] c. 16 [illegible] n° 24. [illegible]
[illegible] in [illegible] [illegible] 33 q. 4. art°
n° 29 [illegible] in cap. [illegible]
n° 2 casu 3. Bartholomeus à Ledesma de matrimonio
[illegible] Petrus de Ledesma de matrimonio q. 64 art°
[illegible] 1. Nos Sanchez [illegible] plures refert in
dubio [illegible] 1. [illegible] de debito coniugali [illegible]
tomo 3. [illegible] 9 de debito coniugali [illegible] [illegible] n° 27
[illegible] et plures ad [illegible] in [illegible] confirmatione [illegible]
2° [illegible] casu [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] in reddendo notabile [illegible]
in casu divortium celebratur ita [illegible]
[illegible] 32. q. [illegible] art° 1 ad 4. ubi [illegible] art° 2 q.
n° 19. Alexander in suo Enchiridion 2 p. in 6. [illegible]
ubi de debito coniugali [illegible] [illegible] [illegible]
summa cap. [illegible] n° 9. de coniugio [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible]
n. 21. [illegible] igitur [illegible] [illegible]
[illegible] [illegible] [illegible], [illegible]

Exploremus [illegible] ulteriam quam sic Coiter interpretes assignant. 1. Conclusio. Mulier quae machinata est in mortem mariti matrimonio et lege ipse privatur, maritus autem insidiatricem interficiens ipso coniugii privari non debet. Illustrant textum in cap. Siquis post 2um dist. cap. Siquis cum telo de penitencia distinctio 1a cap. Super. cap. ultimo de Bigamis. Divus Thomas in addit. ad [illegible] ex [illegible] 5a in prima [illegible] disput. [illegible]

C. post [illegible]
[illegible] 2 q.
[illegible] de [illegible]
[illegible] monere 33
q. 2 [illegible] 2. gl.

n. 14

Retinenti [illegible] expositio [illegible]

Quum oraculis firmior sit [illegible] ad [illegible] difficilis [illegible] consideratio [illegible] [illegible] perpendo. Supponit [illegible] Mulierem mariti sui mortem machinantem matrimonio et lege ipse [illegible] privari debere. quae doctrina difficilis est ex eo quoniam sola machinatio mulieris non est sufficiens ad hoc ut [illegible] separentur divortium quod inter illos quo ad thorum celebratur, sed [illegible] expectatur causa fornicationis sine qua [illegible] [illegible] [illegible] in cap. quid quid mulier 32 q. 5. c. si quis vivente 31 q. 1. Confirmatur difficultas ex cap. super hoc de significatione [illegible] de eo [illegible] in matrimonio. [illegible] in [illegible] [illegible] certe probatum solam [illegible] non [illegible] ad impediendum matrimonium nisi adulterium simul concurrat quod deliberatur ad valorem separationis quoad thorum. =

Ubi vivente marito coniugem illius adulterasse accusat, [illegible] gentilis plectendus est. et in ultimis verbis ibi quod si [illegible] fuerit sine ulla spe coniugii maneant perpetuo cum [illegible].

12 Augetur difficultas [illegible]. quoniam et [illegible] animum et conatum [illegible] maritum interficiendi mulier [illegible] [illegible] si [illegible] opus subsequutum non fuisset videbatur penam non mereri taliter [illegible] pena ordinaria non esset imponenda nisi [illegible] [illegible] [illegible] solam machinationem non sufficere, [illegible] merito affirmare debemus [illegible] [illegible] expectandam ad hoc ut mulier [illegible] [illegible] ipse privari valeat.

c. fin. de sponsalibus
l. 1. [illegible] de
[illegible] Crim. l. 1. in
[illegible]. quodquisque iuris
l. q. [illegible] de falso c.
[illegible] 2 q. [illegible] c. [illegible]
[illegible] 7. de [illegible]

2a. igitur [illegible] [illegible] non [illegible] difficilis apparet.

43 Denique adversus illam [illegible] [illegible] qua [illegible] mariti insidiatorem interficientem spe coniugii privandum, insurgit urget consideratio homicidii impedit matrimonii contrahendum cap. [illegible] de penitentiis et remissionibus, [illegible] maritus qui insidiatricem interficit [illegible] post mortem uxoris matrimonii contrahere non poterit. =

44 Quibus dubitandi rationibus minime refragantibus veri [illegible] [illegible] [illegible] Provenimus clarius intelligentia brebiter [illegible] matrimonii separationem de qua in [illegible] [illegible] mariti vel uxoris machinatis intelligendus est quoad thorum, [illegible] quoad [illegible] [illegible], et matrimonii substantiam indissolubile [illegible] matrimonium [illegible] constat ex Matheo cap. 19 [illegible] [illegible]

quod Deus coniunxit, homo non separet; Divi Pauli 1 ad Corinth. cap. 7. v. His qui matrimonio iuncti sunt praecipio ego, non ego sed Dominus uxorem a viro non discedere, quod si discesserit, manere innuptam, aut viro suo reconciliari; Concilium Trid. sess. 24 can. 7. cap. Apostolicae 32. q. 7. tradiderunt gravissimi item Patres D. Hieronymus, D. Chrysostomus, D. Ambrosius, D. August. aliique plures hanc indissolubilitatis rationem, namque matrimonii ex sua primaeva institutione ordinatur ad propagationem generis humani sobolisque educationem Genesis cap. 1. et si nunc uni, nunc alteri viro nuberet, soboles esset incerta maleque educaretur, eiusdemque denegaretur debita parentibus reverentia, turbaretur bonum, tranquillitas, ac publica pax everteretur. Nec etiam divortium quoad thorum in matrimonio semper admittitur, nisi fiat iudicis et auctoritate, et ex subsistente causa propter scandalum, quod ex tali separatione sequi poterat, ut Petrus Gregorius lib. 9. Syntagmatis cap. 16. n. 12. Thomas Sanchez lib. 10 de matrimonio disp. 12. n. 21. Basilius Legionensis lib. 9. de matrimonio cap. 10. n. 1. Covarruvias tom. 9. q. de matrimonio puncto 9. n. 10. Nec hanc indissolubilitatem oppugnat decisio textus in cap. si qua mulier 32. q. 1. ubi aperte docetur mariti insidiatorem occidentem vivente 1a uxore, alliam posse copulare. Cum matrimonium quoad vinculum indissolubile sit nam Divi nulla ex causa matrimonium ratum et consummatum dissolvi posse cap. ex publico de conversione coniugatorum, cap. Gaudemus hereditatem et licet illa verba posterioris uxoris non referantur in dicto cap. si qua mulier, supplenda [illegible] nec mirum in iure cum multoties occidat verum decisionem per alterius suppleri. Ubi textus enim accipitur in cap. grandis de censibus in 6o et cap. fin. de vita et honestate clericorum, textus in cap. [illegible] ac textus [illegible] cap. ex fama de [illegible] [illegible] velut [illegible] post mortem uxoris. Bellarminus lib. 1. de matrimonio c. 17. obiectio 12. [illegible] Plura caesarea iura hanc indissolubilitatem oppugnantia omitto, cum illa civile, non canonicum ius [illegible] [illegible] ~~[illegible]~~ [illegible] Barbosa, collectanea [illegible]

n. 25 Rursus meminisse oportet machinationem de qua agitur, simulque conatus ad delictum dupliciter considerari posse, quatenus consistit in meros cogitationis terminis, et ab eis non exit, tunc [illegible] voluntatem consistat, immo non punitur in foro exteriori, verum nec in interiori quoad Deum, quia nec venialiter peccare dicitur, ut docet Felinus in tractatu quod puniatur conatus n. 4. et Menochius de arbitrariis lib. 2. casu 366. Delictum enim aut peccatum committi potest absque voluntate, vel peccatum, ut docet D. Augustinus lib. 1. retractationum cap. 15. ubi peccatum esse nisi voluntarium, quod et probat D. Thomas 1a 2ae q. 71. art. ult. facit textus in cap. 1. 15. q. 1. Si vero machinatio consistens intra meros terminos cogitationis voluntate firmetur, tunc licet sit peccatum sit obnoxius quoad Deum in exteriori tamen non punitur l. cogitationis ff. de poenis. l. 1. § cogitationis ff. de sicariis cap. cogitationis [illegible] quod etiam considerari potest machinatio, quatenus consistit extra terminos cogitationis, et vel in actus exteriores devenerit, tunc in foro exteriori puniri potest ut colligitur ex textu [illegible] de defendendo, [illegible] in dictis poenis aliquae [illegible] sunt subiectae.

n. 26 Denique expedit scire eum qui causa propriae defensionis servat moderamina inculpatae tutelae aliquem occiderit nullam culpam homicidii committere nec mortale nec veniale peccatum consistere, cum sit voluntarium, et necessarium, iure divino et positivo unicuique se ab aggressoribus defendere licet l. ut vim ff. de iustitia et iure l. 2. § cum arietes ff. si quadrupes [illegible] l. 1. C. ad l. Corneliam de sicariis cap. cum olim el. 1. de restitutione spoliatorum cap. significasti el. 2. [illegible] Menochius de arbitrariis casu 277, [illegible] etiam vulgare carmen [illegible] urgenti [illegible] tribus [illegible], [illegible] vitam, corpusque [illegible]

n. 27. Ex quibus sic praemissis vera iam resultat ratio decidendi ad nostri casus, cum enim duplex casus sit decisus, dupliciter consideranda est. 1° quatenus docemur mulierem in mortem mariti machinantem spoliandam tam fructibus viri, quam alterius post eius mortem privari, in eo maxime fundatur, quia ea machinatio, quae ad actus exteriores pertinet puniri potest in foro exteriori, et colligitur ex iure, ... [illegible] ... delicti, ... talis machinatio ad actum ... pervenerit ex Felino in cap. 1. n. 2. de praesumptionibus, et Menochio ubi supra n. 32. meritoque ... fuit mulierem a marito separandam, et inhabilem reddi ad contrahendum aliud matrimonium, ... in quo deliquit ... [illegible] ... Capituli, et casum ... mulier liberaretur a marito ... in eo quo deliquit ... ac alterius ... in perpetuum privanda est. Docet ... Thom. in additionibus ad 3 p. q. 60. art. 2. — 2° cum ... colligitur ... aliquis ex ... privari ... quia ut ... in superiori ... omnicuique ... de ... ex d. l. ... [illegible] ... homicidium sit necessarium ... impediat matrimonium contrahendum, ... [illegible] ... qui ... separatus matrimonii ... de causa obtinuit, nam nemo tenetur cum periculo vitae satisfacere ad cuius obligationem ... satisfacere debito coniugali, cum probabili vitae periculo, ... machinatam ... tenetur in cap. ... de ... et remissionibus Caietanus in Summa verbo ... matrimonii ... ubi n. 27.

n. 27. Ex qua vera decidendi ratione 1° infero interpretationem ad casum in cap. ... et in cap. ... 33 q. 2. quibus extat decisio virum occidentem ... sine iudicis auctoritate ... [illegible] ... dicendum, quod tale homicidium ... fuit necessarium, ... voluntarium ... peccavit ... matrimonium illud voluntaria morte dissolvit, licet autem ... permittatur uxorem adulteram in flagranti delicto repertam occidere, cum in hoc casu difficillimum sit ... temperare ... in adulterio ... in casu ... Imperator ... ad ... Iuliam de adulteriis ... Gracchus ... lib. 12. ... recopilationis ... et ... Gomez ... n. 51. Hoc ... intelligendum est, ut excusetur ... a poena ... excusetur ... peccato, ... mariti ... auctoritate occidendo ... adulterium, ... mortaliter peccat ... occidens ... regulariter excusat ... haec ... 33 q. 2. ... cap. 2. de homicidio ... cap. ... de sponsalibus ... Advertendum est, quod quoties propria auctoritate ... adulterium interficit ... peccat mortaliter, ... lucratur dotem, quam lucrari ... auctoritate interficiendo probat ... in cap. ... de donationibus inter ... l. 5. tit. 20. lib. 6. recopilationis ... Gomez ... Cuius ratio est, quia ... iudicis auctoritate intervenit ... ut executor, qui ... ex officio ... exercet, et ... peccat, at ... auctoritate homicidium committit ... animo ... lib. ... Felinus in cap. ... 2. ... q. 64 art. 3.

Rursus infero interpretationem ad textum in cap. 1. et 2. de coniugio leprosorum, ubi decisio extat ... morbo lepra ... coniuge ... recedere, nec debitum denegare, ... hunc procedere dicendum, cum ex tali morbo ... timeri periculum mortis, sicut ... medicorum ... separari ... 4° d. 32. q. 1. art. 1. ... lib. 12. de matrimonio cap. 15. n. 7. et Barbosa ... et ... morbo Gallico, ... peste, ... in tract. de peste ... de privilegiis ... n. 206. ... Licet ... n. 22.

Denique intelligendum ... in ... Paraefrenando ... [illegible] ... obstituit ... dissolvitur matrimonium ... probabiliter ... coniugibus, cum legis dispositio tunc procedit ... periculum vitae, ... divortium ... Navarrus in Manuali cap. 22. ... periculum vitae ... Barbosa ... n. 20.

Quibus sic ... rationes dubitandi adductas ... primum ... cap. quid quid mulier 32 q. 5. quae omnia ...

Et in cap. quemadmodum § fin. de iureiurando asserentis textum non corrigi quia textus in cap. dicto, hodieque in possessione mariti dimittere vxorem, etsi vitis eius invidiat, quia Abstinere potest, nunquam vitanda est iuris correctio, et sic expediat de eadem vtilitate, quia si idem textus loqueretur in terminis nostris recissionis, careret ratione, et magis tribueret vxoribus delinquendi licentiam, et occasionem, iniquissimum namque esset cogere maritum cohabitare cum vxore machinante in eius mortem cum tam graui vitae periculo ab superius dicto § 1 ibidem textus intelligendus est de machinatione facta cum effectu, cum fiat mediante accusatione, vt constat ex illis aliquo vel sive accusauerit ita docet Turrecremata 6, et intelligi potest de machinatione, quae ad mortem mariti tendit, et eius sanitati quidem potest, namque maritus non debet separari ita Albasius in dicto cap. quemadmodum § fin. num. et Sanchez vbi supra disp. 18. n. 8. =

Nec obstat argumentum confirmatum deductum ex dicto cap. Super hoc, et cap. Significasti de eo qui duxit in matrimonium quam prius polluit per adulterium. Pro cuius intelligentia animaduertendum est impedimenta matrimonii in duplici esse differentia. quaedam, quae impediunt matrimonium contrahendum, et non dirimunt iam contractum, quaedam vero, quae impediunt, et dirimunt, impedimentum impedientia sunt interdictum, sponsalia, catechismus, tempus, votum simplex. Quae autem impediunt, et dirimunt sunt communiter sequentes

Error, conditio, votum, cognatio, crimen = Cultus disparitas, vis, ordo, ligamen, honestas, si sis affinis, si forte coire nequibis, si parochi et duplex desit praesentia testis, raptave sit mulier, nec parti reddita tutae, haec socianda vetant connubia, facta retractant. ita elegantes docet Divus Thomas in 4. d. 34 Sylvester in summa verbo matrimonium 7. et dictum summum eodem verbo, Coll. in 4. 2. p. cap. 6. Navarrus in Manuali cap. 22 n. [illegible]

Quo supposito noster textus intelligendus est de impedimento impediente, non de dirimente [illegible] dicto cap. interfectores, et cap. admonere 33. q. 2. et licet textus in his iuribus vtatur, ne matrimonium contrahatur, dicendum est quod si contraxerint, firmum est, ac validum, licet contrahentes mortaliter peccent, impedimentum tantum impediens matrimonium hoc peculiare habet, vt contrahens cum hoc impedimento peccatum committat [illegible] Navarrus [illegible] n. 74 et [illegible] n. 189. Speculum coniugiorum [illegible] art. 24. [illegible] argumentum confirmatum adducta intelligenda est de impedimento impediente et dirimente matrimonium, dum concurrat cum adulterio machinatio, et homicidium, [illegible] cap. 1. de conversione infidelium, l. eg. 11. 2. p. 9. Nec quis potest matrimonium contrahere cum ea quam per adulterium pollutam esse, et cui fides data est de contrahendo matrimonio mortua altera coniuge, nec etiam viuente priore coniuge de facto matrimonium contrahere, cum polluta sit, sic intelligitur textus in cap. 1. cap. cum haberet cum aliis de eo qui duxit in matrimonium quam prius polluit per adulterium, ita Divus Thomas in 4. dist. 37. q. 1. art. 4 Silvester in Summa verbo matrimonium 8. q. 5. et Stalbus fidem dedi in dicto cap. 1. ibi Albasius et in dicto cap. Significasti, vbi dicta iura loquuntur de machinatione, quae impedit, et dirimit matrimonium concurrentibus circumstantiis supra relatis, non vero textus intelligi debet de machinatione, quae tantum impedit matrimonium. =

Nec obstat vltimum argumentum pro ratione dubitandi adductum pro cuius intelligentia explicare oportet an mulier, quae machinata est in mortem mariti, poena ordinaria, de qua in textu, an extraordinaria puniri debeat. in qua difficultate dicendum est, quod si machinatio, vt supra in terminis nostris residimus, solum consistat intra suos cogitationis, nec ad actum exteriorem sit deducta nullam poenam mereri in foro exteriori ex d. l. Cogitationis ff. de poenis, et d. cap. Cogitationis de poenitentia dist. 1, quod Deum id mereri, si voluntas concurrat, cuius rei ratio, licet diuerter ab interpretibus assignetur, quoniam lex, seu lex de occultis, cum Deo tantum cognita sit iudicat. cap. fin. de simonia, in textu ratio est solutio, vt placet Menochio [illegible] scilicet, quod lex diuina ideo punit peccatum cogitationis, quia in suo dicit, neque Deus, cui hominum mens sine macula requirit, at vero leges Principum sive ciuiles cum oditur de hominum actionibus, ac de his, quae extrinsecus ab his geruntur, peccata cogitatione puniri nequeunt, quia non repugnat fini suo, qui est pacem inter homines retinere, neque qui peccatum cogitationis committit alterum [illegible], ita etiam sensit Albericus in tractatu de legibus
num. 6. =

Ex hac praefata excipitur crimen haeresis, cuius solo cogitatio voluntate confirmata punitur per Ecclesiae ministro cognita fiat probat Sta in cap. 1. 24. q. 1. Cardinalis in Clem. 1. de [illegible] Iuris Felinus in cap. 1. de praesumpt. n. 7. Julius Clarus lib. 5. [illegible] § fin. q. 91. Simancas de Catholicis institut. cap. 42. Castro de iusta haereticorum punit. lib. 2. cap. 12, et lib. 1. de potest. legis poenalis cap. fin. Vbb. in regula peccatum [illegible] n. [illegible], Menochius [illegible] [illegible]. Cuius rei ratio est, quia haeresis solo animi prava dispositione perficitur, nec extrinsecus alteratione requiritur, ut haeresis sit aggravata [illegible] opinio cap. in quibus n. q. 2. [illegible] D. Thomas [illegible] q. 11. art. 1. si enim crimen haeresis aliquo verbo, vel facto exteriori signo [illegible] [illegible] innotescat punitur poena temporali [illegible] [illegible] [illegible] foret haereticus in summa verbo haereticus n. 2. et Sylvester [illegible] verbo n. 5. Caietanus [illegible] [illegible] Castro [illegible] de iusta haereticorum punit. [illegible] [illegible] in clem. [illegible] § [illegible] de haereticis — [illegible]

[illegible] si machinatio mulieris sit ad actum exteriorem deducta intentando perficere homicidium, [illegible] [illegible] [illegible] delictum in [illegible] exteriori puniri potest, ut probat [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] et delictis, exodi cap. 21 [illegible] [illegible] [illegible] [illegible] [illegible] morte [illegible] [illegible] illud [illegible] [illegible] [illegible] deficiant vires, audacia certe, laudanda erit [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] in l. [illegible] §. [illegible] ff. ad l. Corneliam de sicariis. l. [illegible], l. quis [illegible] C. ad l. Iuliam maiestatis, l. 1. quis in dicam [illegible] C. de [illegible] et clericis [illegible] l. 1. [illegible] recopilationis, ubi probatur [illegible] morte multari [illegible] [illegible] delictum perfecerint [illegible] in l. cum [illegible] C. ad l. Iuliam de adulteriis, verum etiam, [illegible] [illegible] [illegible], cum sufficiat in hoc casu conatus, ut [illegible] [illegible] [illegible] ubi [illegible] casu 286. n. 45. Julius Clarus [illegible] [illegible] [illegible] [illegible] [illegible] §. [illegible] [illegible] [illegible], [illegible] [illegible] [illegible] 3. 1. [illegible] 7. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] ex cap. 2. de poenitentiis et remissionibus [illegible] [illegible] [illegible] [illegible] [illegible] intelligendum est in casu speciali, de quo loquitur, nempe in [illegible] obligatione [illegible] [illegible] [illegible] qua resultat impedimentum impediens tantum matrimonium, non dirimens, ita Navarrus ubi [illegible] [illegible] [illegible] in [illegible] cap. 6. n. 5. de [illegible] facit [illegible] in l. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] licitum, qualis est defensio propria, [illegible] cuilibet licita est. ut superius [illegible] resolvimus [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

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* Nec contra hanc doctrinam quidquam faciunt [illegible] in cap. illud, [illegible] [illegible] [illegible] [illegible] 31. q. 1. [illegible] [illegible] Claudius [illegible] quibus [illegible] [illegible], [illegible] colligi videtur adulterium solum sine machinatione [illegible] impedimentum impediens, et dirimens matrimonium [illegible] [illegible] [illegible] requirit, quibus [illegible] [illegible] [illegible] licet [illegible] generaliter loqui videantur, intelligenda [illegible] [illegible] [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] cap. 1. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] in matrimonium [illegible] explicat Sta in [illegible] cap. [illegible], [illegible] [illegible] [illegible] art. 4. [illegible] [illegible]

acaile et nos [illegible] hodie imus [illegible] confeccionaria [illegible] a [illegible]

maria dubitarum facere [illegible] tentare cognitio [illegible] tenere [illegible]

satisfacere his ad quae [illegible] cum probabile [illegible] periculo [illegible]

[illegible] et [illegible] in [illegible] 2 25 [illegible] 22 [illegible] [illegible]

[illegible] in [illegible] cap 32 [illegible] ex [illegible] in [illegible] mat.

~~[illegible]~~ matrimonii, maxime immineat ex mutua cohabitatione periculum [illegible]

[illegible] fraudibus nullus [illegible] [illegible] data 27 [illegible]

periculis gratis separari et maritus a debito coniugii liberum [illegible]

maritus [illegible] defendendo [illegible]

machinationem mulieris [illegible] interficere voluerunt occidit, [illegible] maritus

maritus cohabitare [illegible] quae inter coniuges [illegible] accedere [illegible]

semel contractum et consummatum matrimonium [illegible] cap [illegible] 2 [illegible] 2 [illegible]

[illegible] cap [illegible] 7 [illegible] 10 de [illegible]

[illegible] 2. post mortem [illegible] aliam ducere [illegible] cum uxore [illegible]

maritus [illegible] liberam habeat facultatem cap [illegible]

matrimonii contrahendi facultatem propter homicidium [illegible] maritus [illegible]

[illegible] impedit [illegible] [illegible] deducitur ex [illegible]

[illegible] cap [illegible] cap [illegible] 2 et [illegible] dicemus [illegible]

[illegible] canonum expensis et quae in nulla culpa [illegible] maritus [illegible]

[illegible] illam occidit [illegible] defensio [illegible] ac [illegible] instantia [illegible]

[illegible] cap significasti [illegible] 2 de [illegible] clement. [illegible] de [illegible]

[illegible] agnoscimus [illegible] de [illegible]

[illegible] excedat [illegible]

[illegible] excessus defensionis [illegible] [illegible]

[illegible]

[illegible] ordinarius [illegible] defensionem [illegible]

[illegible] significavit [illegible]

[illegible]

[illegible] de homicidio [illegible]

[illegible]

Nuestro Sor [illegible]
D. Manuel de Lara
[illegible]

Schedas. 52

Ad Cap. fin. de secundis nuptiis.

Dubium ortum fuit utrum mulier illa quae a lege primi Viri soluta est statim possit alteri matrimonio iungi, et alterum Virum [illegible] cui dubio ansam dedit illa iuris civilis [illegible] ad Veteres [illegible] qua cautum extat mulieres infra annum luctus a morte mariti matrimonium contrahere non posse. quo dubio non obstante [illegible] Decrevit mulieres statim ac [illegible] Viro alteri [illegible] posse. ex quo [illegible] deducitur [illegible] mulier nubens infra annum luctus [illegible] infamiam [illegible] matrimonium [illegible]
[illegible] sicut [illegible] 7. [illegible] in c. [illegible] Deus [illegible] propagandi generis causa [illegible] castitate [illegible] nuptias, quae in utroque [illegible] permittuntur licitas esse monstravit. [illegible] ad Romanos c. 7. [illegible] et ad Chorinthios [illegible] c. 7. [illegible] Abbas [illegible] Innocentius [illegible] de sponsalibus [illegible] Germonius [illegible] animadversionum c. 4. [illegible] de matrimonio c. 109. Sanchez [illegible] de matrimonio [illegible] Generaliter [illegible] de Castro [illegible] nuptias c. 20. [illegible]
[illegible] Hieronymus [illegible] Paulus ad Tit. c. [illegible] ad Marcellam [illegible] de bono viduitatis c. 22. [illegible] Andreas [illegible] [illegible] in Summa [illegible] Balthasar [illegible] ac [illegible] c. 20. [illegible]
aliis referens [illegible] Seneca, Plutarcus, [illegible] Valerius Maximus et alii plures [illegible] referendi.

Dubitandi ratio movet [illegible] quae [illegible] matrimonii [illegible] ad propagationem generis humani [illegible] Liberorum [illegible] nuptiae [illegible] Genus humanum [illegible] matrimonium [illegible] legitimum [illegible] [illegible] Dubitandi [illegible] sanguinis [illegible] liberorum [illegible] secundas [illegible] [illegible] Augetur quoque haec dubitandi [illegible] priores nuptias [illegible] [illegible]

Quapropter [illegible] Dubitandi ratio [illegible] [illegible] Veritati magis conforme [illegible] ex Apostolo [illegible] licitum esse viduae alteri matrimonio [illegible]
[illegible] lugendi mortuos [illegible] apud [illegible] Veteri genes. 27. et 50. ubi legitur Abraham [illegible] Saram plangere. Deuteronomii [illegible] Stephanus [illegible] Hieronymus [illegible] Cyprianus in Sermone de morte, [illegible] Paulus ad Thessalonicenses [illegible] Seneca [illegible] [illegible] Orpheus [illegible] De Inferis [illegible] flere mortuos [illegible] lacrimas [illegible] celebrent. [illegible]
[illegible] in bello morientes [illegible] Bulgaria [illegible] Romani [illegible] Cyclades [illegible] [illegible] Apud Spartanos denique [illegible] mulieres [illegible] masculis et feminis [illegible] [illegible] Valerius Maximus [illegible] [illegible] Deus mortem [illegible] [illegible] [illegible] Moyses [illegible] Populus [illegible] [illegible] Valerius Maximus [illegible] [illegible] Deuteronomii c. 21. numer. 20. [illegible] Aaron, et Moyses a populi multitudine [illegible] Numer. 20. et Deuther. 34. [illegible] David. Apud Egyptios [illegible] [illegible]

Imperatores Gratianus Valentinus, et Theodosius in l. 1. 2. et 3. C. de secundis nuptiis intra annum luctus mariti uxoribus [illegible] tempore cogeruntur viros suos duodecim mensibus lugere, ita ut non possent intra tale tempus matrimonium contrahere, absque infamiae labe, [illegible] l. Solet ff. de his qui notantur infamia. Huiusce legis intra annum necessitas duplici ex capite oriebatur [illegible] 1º ex publica honestate, intemperantiae, quae [illegible] significaverat [illegible] simul ac a primo viro potestate soluta sit, de secundis nuptiis [illegible] cogitare, vix extincta primi [illegible] face, ad nuptiales [illegible] properare [illegible] ad [illegible] exercendum movere solet maritus, licet mulier [illegible] l. Solet 9. ff. de his qui notantur infamia. 2º ne de [illegible] dubitaretur, ne scilicet forte [illegible] a defuncto marito mulier [illegible] tempus alteri nubat dubitari posset cuius sit partus, ex quo [illegible] eas [illegible] apud [illegible] libro [illegible]

Rursus [illegible] varias [illegible] ad [illegible] mulier [illegible] anni luctus matrimonium contrahere, aut celebrare ausae, utrique [illegible] infamia, ita quod si mulier intra annum luctus matrimonium [illegible] l. 4. C. de secundis nuptiis [illegible] l. 1. ff. de his qui notantur infamia, l. liberorum ff. eodem l. [illegible] 12. [illegible] probant [illegible] Baldus [illegible] Faber. [illegible] et alii plures [illegible] scribentes [illegible] qui [illegible]

~~[illegible]~~ ubi mulier intra legitimum tempus pariat, [illegible] cessat [illegible] matrimonium alteri [illegible] l. liberorum 11. §. Pomponius ff. de his qui notantur [illegible] aut si a Principe [illegible] impetrata fuerit, l. Solet 10. ff. [illegible] de his qui not. [illegible] l. si [illegible] C. ad [illegible] Tertullianum [illegible] ultra [illegible] viro [illegible] voluerit [illegible] nec [illegible] relinquere [illegible] l. Hac edictali 6. C. h. t. de secundis nuptiis [illegible] omissis [illegible] excludit [illegible] ad [illegible] marito [illegible] infamiam [illegible] admitteret [illegible] [illegible] Bart. in d. l. 4. C. de secundis nuptiis [illegible] Hostiensis in summa [illegible] quare [illegible]

Sed [illegible] circa [illegible] Romanum [illegible] post [illegible] [illegible] in d. [illegible] ad [illegible] C. de secundis nuptiis [illegible] quam [illegible] [illegible] tam per [illegible] tam per 30, tam per 70, tam per [illegible] annum [illegible] [illegible] Greg. [illegible] 27. [illegible] quod [illegible] intelligendum [illegible] [illegible] lugere [illegible] [illegible] filiis [illegible] amor [illegible] attendendus [illegible] quandoque [illegible] nuptiis [illegible]

Caput [illegible] 2 nuptias intra annum luctus celebrare [illegible] Iulii [illegible] sublatas [illegible] Ioannes Andreas, et [illegible] Bartolus in l. 1. C. de secundis nuptiis [illegible] [illegible] eius [illegible] Sed tamen [illegible] [illegible] intra annum luctus [illegible] Apostoli [illegible] pro [illegible] principale [illegible] loquitur [illegible] dispensatio [illegible] nuptias statim [illegible] l. 4. C. de his [illegible] Apostoli [illegible] [illegible] abrogatas [illegible] Host. in summa huius [illegible] [illegible] Felinus, et Decius [illegible] videretur [illegible] [illegible] a Canonico [illegible] sublatas [illegible] intra annum luctus [illegible] [illegible] intra annum luctus nubentes [illegible] sublatas. Denique ex lege Apostoli [illegible] Mulier viro [illegible] soluta est a lege viri [illegible] nubat [illegible] statim potuerit alteri nubere [illegible] Deprimitur [illegible] [illegible] nuptiis [illegible] 27. [illegible] docent [illegible] Thomas [illegible] de 27. [illegible] [illegible] Decretales [illegible] matrimonii [illegible] lege [illegible] Canonico [illegible] [illegible] sacris [illegible] [illegible] matrimonium [illegible] sufficiat ad [illegible] Basilius [illegible] [illegible] aut [illegible] aut [illegible] l. si quis alibi [illegible] [illegible] nuptias [illegible] 27. [illegible] [illegible] benedictionem [illegible] de secundis nuptiis [illegible] [illegible] Decretales [illegible] de [illegible] 2. [illegible] Greg. [illegible] Canonico [illegible] [illegible] mulieres [illegible] a primi [illegible] lege [illegible] soluta, alteri posse nubere quisquis. [illegible]

15, Ex quibus omnibus, et ex [illegible]

[illegible] Trid. [illegible] nuptiis [illegible] intelligendus [illegible] [illegible] matrimonium [illegible] nuptias [illegible] [illegible] Magnus [illegible] [illegible] nubere [illegible]

[illegible] l. 4. C. ad Tertull. [illegible] [illegible] l. 4. C. de [illegible] [illegible] 79. [illegible]

e ex 90 Illiberitano can. 72. et ex Carthaginensi 4o c. 7. Toletano 3o can. 10, et Florentino sub Eugenio 4o [illegible] quare [illegible] ulterius nisi Canonicus obstet impeditus [illegible]. Theorema e rejectis aliis [illegible] Neotericorum [illegible], sicque [illegible] Decreta nullius roboris, nullius ve firmitatis habere. Sed fallitur maxime [illegible] in dicto Nigeno [illegible] habetur in Concilio Florentino [illegible] ex libello [illegible], ubi Leo Papa 4o scribit [illegible] Britanniae [illegible] Decernenda [illegible] Concilio Decreta [illegible] ...

[illegible] existimat [illegible] Canonis intelligendus esse de [illegible] plures acceperit [illegible] ... Caramuel [illegible] matrimonio [illegible] eodemque tempore [illegible] ...

[illegible] Bellarminus tamen lib. 2. de Conciliis c. 8. [illegible] c. de matrimonio c. 9. existimat [illegible] ... De secundis nuptiis [illegible] ... asseverat [illegible] celebritati 2i matrimonii [illegible] ... Cui quidem interpretationi [illegible] nisi Augustinianae Familiae [illegible] de matrimonio c. [illegible] existimat [illegible] Basilius [illegible] ... nuptias [illegible] demonstrant [illegible] ... Basilius [illegible] ad Amphilochium c. 4. [illegible] trigamus [illegible] ... Theodorus [illegible] ... Toletanus [illegible] ... Baronius [illegible] anno 364. [illegible] ...

Rursus [illegible] Decreti [illegible] q. 1. [illegible]

[illegible] permittebat [illegible] Apostolus [illegible] ... Veritatis [illegible] ... Bellarminus [illegible] Canonis [illegible] ... decretalis [illegible] ... Gratianus [illegible] Decreti [illegible] ... Benedicti anno 1150 [illegible] ... Decretis [illegible] ... Andreas Vallensis [illegible] ... Canonis [illegible] ... Decreti [illegible] ... Hieronimus [illegible] ... Decreta [illegible] ... Generali [illegible] ... Venerabilis [illegible] ... Basilius [illegible] de matrimonio c. [illegible] ... Bellarminus lib. 1. de matrimonio c. 9. [illegible] ...

Deinde [illegible]

[illegible] sub Liberio Papa [illegible] ... Bellarminus [illegible] de Conciliis [illegible] ... Generale [illegible] ... Bellarminus [illegible] ... de matrimonio c. 2. [illegible] ...

Rursus [illegible] ad [illegible] Famosis [illegible]

[illegible] mulier, quae intra tempus [illegible] lugere maritum [illegible] matrimonium [illegible] ... C. de secundis nuptiis. [illegible] ... infamiam [illegible] ... mulier intra annum luctus [illegible] ... Canonici [illegible] ... infamia [illegible] ... matrimonium [illegible] ... 2a Statii [illegible] ...

aliqui ex interpretibus varias proponentes interpretationes, et solutiones, melius mihi videtur, ... [illegible] ... fidere declaratur. Agitur de ... [illegible] ... in Decreto insertas, quae si a Papa aliquo, ... [illegible] ... interpretationibus, quae licet in Decreto sint insertis approbationem Papae, seu alicuius habent, ... [illegible] ... Canonica ... [illegible] ... [illegible] ... approbationem Papae, seu alicuius habeat, sed potius ... [illegible] ... vim iuris Canonici retinere negandum est, ut notat, et docet Thomas Sanchez de ... [illegible] ... n.o 33. =

Sine ... [illegible] ... Hostiensis ... [illegible] ... interpretari ... [illegible] ... quae ... [illegible] ... affert interpretationem

Ad tit. de accusationibus   Scheda 53.

[illegible] [illegible]

[illegible] [illegible]

[illegible] Romanus [illegible] Philip [illegible] qui [illegible] gubernavit e. anno [illegible] inter cuius decreta et rescripta inveniuntur quaedam decretales [illegible] omissa, ex quibus [illegible] desumitur [illegible] Ant. Aug. in [illegible] Collect. Decretal. [illegible] Burchardus [illegible] Ivo Carnotensis [illegible] decreti c. 279. Cuius [illegible] elegantem [illegible] et celebrem [illegible] quaesitionem, quae [illegible] relinquimus, vulgaria omittere, et selectiora [illegible]

Igitur ut meliori ac [illegible] modo [illegible] pateat [illegible] Cum [illegible] varie ab antiquioribus [illegible] referendo [illegible] accusatoris [illegible] ad iudicium [illegible] probant [illegible] testimonia [illegible] c. memininus [illegible] de electione, c. accus. 23. et aliis pluribus [illegible] de accusationibus [illegible] de [illegible] c. quaerendum [illegible] c. [illegible] c. [illegible] canonica [illegible] de testibus [illegible] similiter [illegible] nullus [illegible] de criminibus [illegible] de accusationibus [illegible] ignorat [illegible] de crimine [illegible] accusare [illegible] Abbas [illegible] Anania, et alii [illegible] Baldus in [illegible] Bartolus in [illegible] de publicis [illegible] Antonius Gomes [illegible] var. c. 1. de delictis n. 31. [illegible] Clarus [illegible] Tiberius Decianus [illegible] canonici [illegible] a Barbosa [illegible] referendis =

Sed licet hoc [illegible]

[illegible]

[illegible] debet venire, sive [illegible] quidem [illegible] nulla facta [illegible] legitimo [illegible] [illegible] accusatore legitimo [illegible]

Quae gemina [illegible]

[illegible] accusator, quod ut [illegible] itaque [illegible] animadvertimus [illegible]

[illegible]

[illegible] qui in [illegible]

In margin: [illegible] si legitimus fuerit accusator, [illegible] accusatus [illegible] tamen =

In margin: L. ult. C. [illegible] de [illegible]

In margin: [illegible] quae auctoritatibus [illegible]

In margin: [illegible]

In margin: [illegible] var. c. 1. n. 29.

In margin: ut iudicis [illegible] qui de [illegible] [illegible] ut [illegible] servanda

In margin: [illegible]

cap. [illegible] 36. de [illegible] excommunicationis [illegible]. [illegible] utrumque [illegible] tam publica [illegible] possent coercere delicta [illegible] decreverit [illegible] procedi [illegible] ad [illegible] criminis [illegible] per accusationem [illegible] qualiter et quando [illegible] ad corrigendos [illegible] exinde [illegible] de accusat. [illegible] docet [illegible] ex [illegible] quid accus[illegible] et quid inquisitio, et quod [illegible] et qualiter [illegible] [illegible] aliaque [illegible]. =

Quarum praetermissis venit [illegible] qui ab obligatione [illegible] regulariter admittuntur ad accusandum, [illegible] aliquo [illegible]

[illegible] cap. [illegible] qui accusare [illegible] de accusat. [illegible] de postulando, [illegible] de testibus [illegible] de testib. [illegible] de matrimonio [illegible] Tiberius Decianus [illegible]

[illegible] accusat [illegible] generalis regula [illegible] alius accusare [illegible]

[illegible] debet [illegible] de [illegible] peccato [illegible] postulatio [illegible] sacerdotio [illegible] qui accusare [illegible] ratio [illegible] debet [illegible] festuca [illegible] fratris [illegible] clericos [illegible] Hostiensis [illegible] Panormit. n. 4. [illegible] Greg. [illegible] de cap. [illegible]

Quia generalis regula [illegible] ut specialiter [illegible] quibus accusandi [illegible] adduce [illegible] versus [illegible] qui [illegible] habent.

Hi non accusant quos metra sequentia signant.
Femina, pupillus, delatus crimine [illegible]
[illegible], [illegible], [illegible], [illegible]
Infamis, servus, pauper [illegible]
Libertus [illegible], nec [illegible]
Clericus [illegible] nullus de [illegible] valeat.

Hic sigillatim [illegible] expliciemus [illegible]. Feminae igitur feminini regulariter [illegible] crimine [illegible] de [illegible] accusat. [illegible] docent [illegible] Tiberius Decianus [illegible] tract. crim. [illegible] Julius Clarus [illegible] Hostiensis [illegible] feminis [illegible] publice [illegible] [illegible]

[illegible] crimine [illegible] accusare [illegible] Prohibentur [illegible] ab accusat. [illegible] de accusat. [illegible] ad accusandum [illegible] admitti [illegible] de accusat. itaque [illegible] minor [illegible] Bart. [illegible] pupillus [illegible] possit accusare [illegible] docent [illegible]

Amplius ab accusando arcentur delati [illegible] criminibus [illegible] de publicis iudiciis [illegible] Hostiensis [illegible] Julius Clarus [illegible] qui accusare [illegible] accusare [illegible] [illegible] [illegible] itaque nec [illegible]

[illegible] accusare [illegible] de [illegible] admitti [illegible] Julius Clarus [illegible]

Deinde ab accusatione [illegible] accusat. [illegible] crimina [illegible] de accusat. [illegible] Decianus [illegible]

Marginalia:

[illegible] accusatione [illegible] admitti [illegible]

qui [illegible] accusat debet esse [illegible] [illegible]

Si quis [illegible] admittere [illegible]

7

2. q. 7. c. infames 6. q. 1. c. quis, c. Canonica c. similiter [illegible] §. regulariter qui infames [illegible] infames [illegible], c. [illegible] 6. q. 1. c. blasphemus 2. q. 4. = Nec etiam servi admittendi sunt ad accusandum [illegible] 2. q. 1. [illegible] ex familiaribus 20. [illegible] sequenti C. de his qui accusare non poss. [illegible] [illegible] et sequens [illegible] semper servi [illegible] dominum [illegible] [illegible] minores [illegible] habeat [illegible] l. ult. C. de his qui acc. non poss. = Pauper etiam ab accusando repellitur [illegible] quinquaginta aureos [illegible] l. nullus 10 ff. de accusat. [illegible] pauper [illegible] ab accusatione debet repelli [illegible] l. nullus [illegible] [illegible] nec in iudicando nec in [illegible] ad hoc [illegible] = [illegible] accusat [illegible] qui [illegible] l. [illegible] C. de his qui accus. [illegible] [illegible] admittantur [illegible] [illegible] [illegible] [illegible] accusare alius [illegible] ob [illegible] reipubl. [illegible] Privilegiis, qui in Magistratu [illegible] accusare [illegible] accusare [illegible] tractat [illegible]. = [illegible] accusat [illegible] l. ult. [illegible] C. de his qui accusare [illegible] [illegible] [illegible] libertos [illegible] [illegible] accusare poterit. =

+ [illegible]

arg. [illegible] l. [illegible] [illegible] accusare.

Denique [illegible] accusat

et illegitime accusatores [illegible] repellantur [illegible] [illegible] [illegible] [illegible]

10 [illegible] accusat [illegible] Dec. [illegible] 17. [illegible] 4. [illegible] Debeant [illegible] Clarus [illegible] 9. 14 n. 7. Nec clerici [illegible] accusare [illegible] [illegible] accusat [illegible] accusat [illegible] ab [illegible] [illegible] C. de his qui accus. [illegible] accusant [illegible] Maiestatis [illegible] l. 2 [illegible] criminibus [illegible] Clarus [illegible] Decianus [illegible] 3. c. 17. [illegible] criminibus [illegible] accusandi admitti [illegible] [illegible] accusandi exercitium [illegible] [illegible] Clarus [illegible] 9. 14. [illegible] Decianus [illegible] 12 [illegible] 33. =

ac facilius

[illegible] animadversioni [illegible]

11 [illegible] accusat [illegible] illegitimus [illegible] accusator. [illegible] illegitimus accusator [illegible] repelli [illegible] [illegible] reipubl. [illegible] crimina accusando [illegible] 6. q. 1. [illegible] accusat [illegible] Calumnia [illegible] accusat [illegible] accusatores [illegible] 2. q. 4. [illegible] criminis [illegible] accusare [illegible] 6. q. 1. [illegible]

+ [illegible] accusat [illegible] accusare [illegible] 2. q. 1. [illegible] illegitimus [illegible] accusator [illegible] ab accusat. repellere [illegible] legitimus [illegible] accusat [illegible] [illegible] 2. 5. [illegible]

12 [illegible] ut [illegible] accusator [illegible] illegitimus [illegible] [illegible] impunita maneret [illegible] = Nec obstat [illegible]

13 [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

14 [illegible] legitimus [illegible] [illegible] accusator accusat [illegible] accusatorii [illegible]

Ex quibus [illegible] [illegible]

16 [illegible] accusat [illegible] [illegible] accusare de aliquo crimine [illegible] illegitimum [illegible] [illegible] accusare [illegible] admitti [illegible] [illegible] [illegible] [illegible] accusat [illegible]

a sua [illegible] familiaritate negligeret separare antequam [illegible] accusarent. ex quo [illegible] aperte [illegible] nosos ad accusandum [illegible] admitti, nec posse criminis exceptione ab accusatione repelli, [illegible] illegitimus accusator graviter vexatur. hanc difficultatem agnoscit [illegible] nulli vel familiaritate, et duplici [illegible] tentat, [illegible] criminosos accusatores in [illegible] admissos fuisse ad accusationem [illegible] quia ipse de excessibus criminibus accusabatur, et publica laborabat infamia, [illegible] criminosos [illegible] accusatores admittit [illegible] testimonia [illegible] laesae Maiestatis, [illegible] hoc [illegible] illegitimitatis exceptio ab [illegible] accusato contra accusatores obiecta [illegible], [illegible] tamquam legitima admitti, et hanc [illegible] plures tenuisse asserit Host. [illegible] 3. [illegible] congruit, [illegible] nulla criminis exceptio [illegible] accusatis fuisse [illegible] [illegible] respondet [illegible] legitimi accusatores [illegible] adduximus, [illegible] familiares [illegible] illos accusatores [illegible] debent haber [illegible] [illegible] qui de [illegible] testis [illegible] 29. 7. [illegible] simul [illegible] non post amplius illos [illegible] Ferrand. 32. 5. [illegible] de reg. [illegible] Host. [illegible] 4. [illegible] Decianus [illegible] tract. crimin. [illegible] 11. [illegible] familiares, [illegible] examinare [illegible] poterit [illegible] 29. 7. [illegible] Host. [illegible] Decian. [illegible] 17.

[illegible] accusato ab illegitimo accusatore purgatio canonica indicitur, quae ab obiectis criminibus purgare [illegible] Veneris [illegible] illegitimus sit accusator, [illegible] purgare ab infamia criminis [illegible] accusatore [illegible] illegitimi accusatoris [illegible] ut accusato reo purgatio canonica indicenda [illegible] ex calumniosis, [illegible] accusat, [illegible] purgatione canonica [illegible] 29. 4. [illegible] 11. [illegible] docent Host. [illegible] Veneris [illegible] 5. [illegible] 27. [illegible] infamia [illegible] habuit ortum [illegible] infamia [illegible] Veneris [illegible] illegitimi accusatoris [illegible] purgatio [illegible] infamia a tali accusatore orta, [illegible] infamia [illegible] publicae, quae [illegible] purgatio [illegible] ita respondet [illegible] antiquorum [illegible] testatur Merlaulis [illegible] infamia gravis erat, [illegible] apud bonos, [illegible] scandalum apud [illegible] purgatio indicenda [illegible] undecumque orta [illegible] infamia, [illegible] scandalum [illegible] [illegible] 29. 3. [illegible] gravis [illegible] infamia illegitimi accusatoris orta [illegible] purgatio [illegible] infamia ad [illegible] maiores pervenerit, [illegible] Docent Host. [illegible] 5. [illegible]

[illegible] canonicae [illegible] infamia orta ab accusatore illegitimo [illegible] purgatio canonica [illegible] Clericus fuit infamatus ab [illegible] ab accusatore illegitimo, [illegible] erat gravis infamia [illegible] saltem [illegible] apud bonos, [illegible] laborabat, [illegible] ab obiectis criminibus, [illegible] accusati gravata [illegible] docet Merlaulis [illegible] 21 = [illegible] modo [illegible] orta a [illegible] 29. 7. [illegible] purgare [illegible] erat scandalum, [illegible] fidelis scandalum [illegible] scandalum [illegible] clericus [illegible] de criminibus [illegible] purgatio canonica. [illegible] ad [illegible] undecumque infamia gravis orta [illegible] habeat [illegible]

[illegible] Veneris [illegible] Denique [illegible] ad [illegible] 3. [illegible] [illegible] ab accusatore illegitimo [illegible] accusatus, [illegible] purget [illegible] ex calumniosis [illegible] super [illegible] [illegible] infamia [illegible] [illegible] ab accusatore repulsus [illegible] apparent [illegible] igitur [illegible] illegitimus [illegible] accusator [illegible] accusat, [illegible]

[illegible] Decian. [illegible] Host. [illegible] 3. [illegible]

Sed hanc difficult. Dilucidamus [illegible] inter [illegible] Casus, quo notorie [illegible] ex forma accepti libelli denunciationis accusatoris indignus et illegitimus [illegible] accusator [illegible] ante citationem notorium erat et postea constitit accusatorem [illegible] fuisse legitimum. [illegible] ad petitionem illegitimi accusatoris reus [illegible] non debet [illegible] comparere [illegible] cogatur arg. [illegible] [illegible] [illegible] [illegible] vocari [illegible] placuit [illegible] [illegible] [illegible] [illegible] quoniam [illegible] debet [illegible] illegitimus accusator [illegible] [illegible] [illegible] legitimus [illegible] excipiat [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] illegitimitatis exceptio [illegible] [illegible] privatis modis [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] de except. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Butrius [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Felinus [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] accusator illegitimus [illegible] [illegible] [illegible] [illegible] comparere tenetur [illegible] [illegible] accusatorem [illegible] fuisse legitimum, dummodo [illegible] ante citationem [illegible] illegitimitas [illegible] [illegible] innocentia [illegible] [illegible] [illegible] [illegible] accusator [illegible] [illegible] [illegible] Et illegitimus fuisset accusator [illegible] [illegible] [illegible] [illegible] [illegible] illegitimum [illegible] fuisse apparet [illegible] [illegible] ante citationem [illegible] [illegible] [illegible] [illegible] [illegible] calumniis, quas adversus [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] privilegium [illegible] habebat allegaturus [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] contemnere arg. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Panorm. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Butrius [illegible] Host. [illegible] appellat. [illegible] [illegible] =

Pro [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] ad petitionem illegitimi [illegible] [illegible] accusatoris [illegible] illegitimitas [illegible] ante citationem [illegible] [illegible] [illegible] [illegible] illegitimitatis exceptio [illegible] [illegible] valet [illegible] qui accusare [illegible] accusare [illegible] [illegible] de except. [illegible] Butrius [illegible] Pan. [illegible] [illegible] accusator [illegible] [illegible] [illegible] accusator tempore quo accusavit [illegible] legitimus, [illegible] [illegible] [illegible] illegitimus [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] accusat. de novo [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] de novo [illegible] [illegible] [illegible] [illegible] [illegible] Dart. [illegible] [illegible] accusat. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] accusator [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] de adult. [illegible] [illegible] [illegible] accusat. [illegible] [illegible] erat illegitimus. et [illegible] =

[illegible] [illegible] siquis [illegible]

= Hoc titulo =

Textus [illegible] [illegible] habet Felinus [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] decretalis [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] ab accusatione [illegible] legitimus [illegible] accusatur, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] emendet, [illegible] semel admonitus [illegible] se corrigere noluerit, cognitio [illegible] ad Primates deferatur. [illegible] Decreto [illegible] [illegible] [illegible] [illegible] sunt desumpta [illegible] [illegible] [illegible] [illegible] [illegible] sumere [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] crimine vult denunciare, [illegible] [illegible] [illegible] charitative admonere, ut se corrigat et emendet, [illegible] [illegible] admittendus [illegible] [illegible] [illegible] se corrigere noluerit ad Primates [illegible] cognitio deferatur. [illegible] [illegible] [illegible] [illegible] [illegible] qualiter et [illegible] [illegible] [illegible] [illegible] de accusat. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] accusat. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] accusat. [illegible] [illegible] [illegible] [illegible] [illegible]

L. 9. dig. [illegible] ff. de decuri[onibus] [illegible] urban[illegible]

c. [illegible] scutere [illegible] caa, [illegible] Augusti 2. q. 4. c. [illegible], c. Quodecim 5. q. 9. [illegible] Del [illegible]
7. [illegible] accusat. [illegible] [illegible], illustrant hancq[ue] [illegible] ex antiquioribus, Panormit. [illegible]
[illegible] Host. Aug. [illegible] Berous [illegible] Hostiensis in Summa [illegible] 3. [illegible]
nibus [illegible] Greg. [illegible] 31. [illegible] c. 3. [illegible] 5. part. [illegible] 9. c. 1. n. 3. [illegible] n. 1. Sanchez [illegible] 6.
rys c. 2. dubio 5. Navarro [illegible] 5. [illegible] 3. de accusat. n. 4. D. Thomas 2. 2. q. 33. ar. 7. Soto [illegible] 5. [illegible]
9. q. ar. 2. Angelus in Summa verbo denuntiatio n. 2. Silvester [illegible] verbo 9. 3. e plures alij quos [illegible]
[illegible] allegat [illegible] ubi eleganter explicat [illegible] quomodo sint [illegible]
n. 2

Sed licet [illegible] in [illegible] verissima in [illegible] videatur, [illegible] ex sequenti [illegible]
~~[illegible]~~ [illegible] testimonio [illegible]
ratio, asserimusque [illegible] desideratus [illegible] accusare [illegible] admonere debere. [illegible]
alter extraneus accusatur nulla necessaria monitio, imo sufficit quod legitimus sit accusator [illegible]
[illegible] accusat. [illegible] accusatoribus [illegible] [illegible] extraneo
saty monitio necessaria [illegible] requiri in [illegible], si quid [illegible]
bent delinquere, [illegible] delinquant graviter attenta personarum qualitate [illegible]
ff. de [illegible] de delictis 5. [illegible] ff. de re militari, [illegible]
et clericis [illegible] aperte [illegible] in maiori dignitate [illegible] delinquit [illegible]
ipsi tamen in maiori dignitate [illegible] voluerit accusare [illegible] debet prius [illegible] caritative monere, [illegible]
privato accusato [illegible]. Augetur [illegible] dubitandi ratio, ex eo [illegible] Dec[retalis] [illegible]
in nullo casu [illegible] accusatum [illegible] monere accusatus, ut adversus [illegible] criminali iudicio [illegible]
periri c. [illegible] et [illegible] de accusationibus [illegible] nulla [illegible] monitio [illegible] accusat[ionem]
instituitur, [illegible] docemur [illegible] criminali [illegible] accusationis legitime admonitio [illegible]

n. 3.

Quam [illegible] dubitandi rationem obstante verissima [illegible]
Decisio cuius [illegible] Germanus [illegible] [illegible] ad alliam [illegible] expedit. [illegible]
itaque [illegible] Decisio [illegible] [illegible] Dicendum [illegible]
[illegible] et [illegible] [illegible] dicerent [illegible] specialius [illegible]

adversus [illegible] accusatio recipienda [illegible] nisi accusatores [illegible] monuerint, [illegible] specialitatis [illegible]
in ita de facili admitti debent ad accusationem [illegible] accusatio [illegible]
c. qualiter, [illegible] c. 2. medium [illegible] et ideo [illegible] accusatione [illegible] admonitionem [illegible]
[illegible] verba videatur, [illegible] ex c. [illegible] Vbi [illegible]
[illegible] admonitio accusanti [illegible] specialitatis ratio [illegible] necessaria in accusat[ione] [illegible]
requiritur [illegible] necessaria requiritur [illegible] [illegible] requirerent
[illegible] declarat [illegible] qualiter et quando c. medium de accusat. notant Panormit. et Berous [illegible]
[illegible] [illegible] ubi accusatoribus et ubi accusatis [illegible] ut [illegible]
[illegible] libere [illegible] in denuntiatione, [illegible] denuntiato [illegible] accusat[ione]
[illegible] accusatoribus, [illegible] accusatos [illegible] denuntiationibus [illegible] denuntiatus [illegible]
[illegible] de aliquo crimine denuntiare volens ipsum familiariter [illegible] moneat, ut se corrigat [illegible]
a [illegible] regulat [illegible] decisio [illegible] canonici [illegible]
[illegible] eleganter [illegible] in c. accusatio 45. 2. q. 7. ubi [illegible]

n. 4

[illegible] ipsum [illegible] accusare [illegible] prius [illegible]
tur admonere. Cuius decisionis illa [illegible] ratio, [illegible] denuntiatio [illegible] ad correct[ionem] [illegible] publicam [illegible]
inducendi, [illegible] ut [illegible] Superius [illegible] quoniam ad [illegible] accusatio,
ad correctionem [illegible] Denuntiatio [illegible]. [illegible] ipsum admonitio [illegible] familiariter [illegible]
[illegible] emendare [illegible] admonitio, [illegible] familiaris [illegible]
antequam de crimine [illegible] coram superiore [illegible] [illegible]
n. [illegible] q. 2. ar. 3. [illegible] 2. ad 3. [illegible] Nec [illegible] obstat dubitandi [illegible] ad [illegible]
puniri [illegible] maiori [illegible] Dignitate [illegible] [illegible] intelligi debent [illegible]
[illegible] ~~[illegible]~~ [illegible] accusatus. [illegible] in hac [illegible]
monitio [illegible] ratio Dignitatis [illegible] in [illegible] [illegible] quamlibet [illegible]
[illegible] c. qualiter et quando [illegible] [illegible] ex [illegible] et Bernard, [illegible]
itaque in accusatione, [illegible] monitio non necessaria, [illegible] sufficit [illegible] [illegible]
[illegible] Pan. [illegible] [illegible] et [illegible] corrigendus [illegible]
[illegible] de accusatione [illegible]

Sed hanc [illegible] Decisionis [illegible] Difficillimum [illegible]
n. 5
[illegible] q. 7. ubi [illegible] Anacletus [illegible] docuit [illegible] accusationes [illegible] recipi [illegible]
[illegible] accusatores [illegible] legitimi [illegible] fuerint, [illegible] quos [illegible] adversus [illegible]
[illegible] moneat, [illegible] caritatis studio, ut familiari colloquio [illegible] moniti [illegible] emendent,
[illegible] emendandum [illegible] accusare, [illegible] [illegible]
[illegible] canonis [illegible] [illegible] [illegible] facti [illegible]
[illegible] [illegible] [illegible]

[illegible] Decretis nostris [illegible] videtur, quatenus [illegible] adversus [illegible] Decernit [illegible] fraterna monitio Delinquentis [illegible] intellectae traditas, observatas [illegible] traditionis exceptionem [illegible] Difficultati [illegible] criminali [illegible] teneatur [illegible] Debet erga [illegible] qui spiritualis pater est, ac matris ecclesiae [illegible] [illegible] Deactionis [illegible] habet [illegible] habent [illegible] [illegible] [illegible]

[illegible] Dicimus [illegible] Privatis [illegible] Definitiones [illegible] [illegible]

[illegible] accusatoris [illegible] accusari [illegible] [illegible]

[illegible] accusare [illegible] [illegible] accusationem [illegible] [illegible]

Julius Clarus [illegible] 5 [illegible] q. 13. n. 4. Gregorius Lopez [illegible] l. 1. tit. 1. glo. [illegible] [illegible] procedit, [illegible] de criminibus post admonitionem [illegible] [illegible] crimina coram legitimo iudice [illegible] [illegible] [illegible] careat. [illegible] merito [illegible] accusatores [illegible] admissi fuerunt. [illegible]

Actionum in cella [illegible]

l. [illegible] tit. de Accusat.

Adeo arida [illegible] Decisio, ut fere nullis [illegible] [illegible] qualiter qualiter [illegible] antiquiores quippe [illegible] permiserunt, [illegible] attigerunt. [illegible] proponi [illegible] Labor. [illegible] exordimur et [illegible] proponimus. Cum [illegible] Abbas [illegible] Delicti perpetrator [illegible] accusatus fuit, [illegible] de facto ([illegible], si [illegible] impunita [illegible]) [illegible] ad aures Romani Pontificis [illegible] pervenisset [illegible] Campaniae [illegible], ut [illegible] quo ei [illegible] ut [illegible] se amoveret, [illegible] ad [illegible] causa [illegible] expectasset ad [illegible], ut [illegible] posset [illegible] absoluere [illegible] admitti [illegible] et [illegible] ut ille [illegible] interest, ut ille Abbas [illegible] relinquat. [illegible] [illegible] [illegible] illi debet ad accusationem admitti [illegible] [illegible] Delicta. ad [illegible] testimonium, aliquam [illegible] [illegible] [illegible] sub termino [illegible] utile, imo, et necessarium iudicio. [illegible] Abbas Panormitanus [illegible] Joannes Andreas, [illegible] antiquiores [illegible]. Rebuffus ad [illegible] Galliae [illegible] [illegible] tione n. 204. [illegible] Augustinus [illegible] Decretalium [illegible] 5. tit. 1. cap. 5. [illegible] Barbosa [illegible] Julius Clarus [illegible] q. 14. [illegible] [illegible] [illegible] Verissima [illegible] rationes. [illegible] ille [illegible] accusationum [illegible] ut [illegible] criminis publicae [illegible] fiat, adhuc ut semper [illegible] quiete, [illegible] pacifice [illegible] et [illegible] potestas desideravit cap. [illegible] 13. 23 q. 5. [illegible] [illegible] delinquentes [illegible] [illegible] Statutis [illegible] [illegible] [illegible] Augustinus [illegible] [illegible] [illegible] aut [illegible] accusatis [illegible] impunita manerent, male [illegible] [illegible] et declarat [illegible] ad accusandum debet [illegible] [illegible] aliqua [illegible] [illegible] populare [illegible] accusatio [illegible] [illegible] [illegible] accusari. [illegible] l. 1. [illegible] [illegible] [illegible] accusationes omnibus patere [illegible] publicis, itaque [illegible] accusatis [illegible] nulla facta [illegible] extraneos, aut [illegible] ad accusationem [illegible] admittentur [illegible] [illegible] Decretis, [illegible] ad accusandum admittatur.

Quae genuina [illegible]

Dico [illegible] ad accusationes illos tantum admitti [illegible] interest [illegible] [illegible] ut [illegible] [illegible] quorum interest accusationem [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Abbatem [illegible] [illegible] [illegible] accusationem [illegible] [illegible] valeret, [illegible] 3. q. 9. [illegible] de accusationibus. [illegible] ad accusandum [illegible] [illegible] [illegible] ad accusationem [illegible] [illegible] [illegible] [illegible] [illegible] 26. q. 7. [illegible] [illegible] [illegible] Plurima [illegible] [illegible] patronus [illegible] [illegible] [illegible] [illegible] [illegible] 26. q. 7. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Lambertinus [illegible] [illegible] q. 2. ar. 8. [illegible] nulla [illegible] [illegible] Admitti erit ad accusationem [illegible] [illegible] interest ut [illegible] [illegible] [illegible] [illegible] 37. [illegible] [illegible] [illegible] et attestationibus, [illegible] accusationem [illegible] interest [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Abbas [illegible]

Exemplis [illegible] [illegible] [illegible] accusatis, [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] 3. [illegible]

[illegible] ad [illegible] accusatio [illegible]

Doctrina [illegible] [illegible] [illegible]

[illegible] accusatio [illegible]

[illegible] patronus [illegible] [illegible]

Quibus ita [illegible] iam [illegible] assertionis [illegible] ad accusationem admittendos, [illegible] debere [illegible], quorum interest ut [illegible] cognitio fiat, et ut illud delictum puniatur, [illegible] ad accusandum [illegible] quorum interest [illegible] cognitionem [illegible] quorum interest accusare [illegible] 3. q. 9. [illegible] art. 2. [illegible] accusare 3. q. 9. [illegible] L. 2. C. [illegible] magno [illegible] absoluatur, ut constat [illegible]

[illegible]

Cad accusationem [illegible] Delictum puniatur [illegible]

[illegible]

3a Beneomnes quod neutiquam obligat. [illegible] Allegationes [illegible] vulgares [illegible]. et [illegible] Marius [illegible] magis [illegible]
[illegible] accusationem [illegible] accusatus [illegible] ad accusationem nec [illegible] admittit, adversus [illegible]
[illegible] valere debet [illegible] crimine [illegible] [illegible] utroque [illegible] et remediis
[illegible] ut constat [illegible] Abbas [illegible] [illegible] Panormit. [illegible]
De adulterio tenere [illegible] denunciare (ad poenitentiam peragendam) quo [illegible] modo remedium [illegible] delicto
[illegible] accusationis ac denunciationis, [illegible] denunciet, et sic [illegible]
[illegible] delicta maneant [illegible]
[illegible] Panormit. [illegible]
[illegible] Abbas Panormit. [illegible] Igitur manet [illegible] assertionis [illegible]
[illegible] delictis privatis, in quibus [illegible] accusat [illegible]
[illegible] delicto privato, et publico [illegible]
[illegible] magnopere [illegible]

Ad Textum in c. Omnipotens [illegible]

Noster textus authore habet Dominum Greg. [illegible] 4. [illegible] c. 87. qui [illegible] de eo casu [illegible] criminibus accusatus accusat, denunciatione pendente ad ordines, et beneficia ecclesiastica, dignitates promoveri, [illegible] accusatus, et denunciatus de aliquibus criminibus ante [illegible] minime posse. testatur ita [illegible] Aug. [illegible] Collect. Decretalium [illegible] 5. [illegible] 1. cap. 6. Ex quo Dominum Gregorij responso [illegible] deducitur disputanda assertio. Accusatus, et denunciatus de aliquo crimine accusatus [illegible] denunciat. ad ordines, et ecclesiasticas [illegible] dignitates [illegible] ascendere. [illegible] ut [illegible] testimonia [illegible] accusatus [illegible] de simonia [illegible]
[illegible]

Dubitandi [illegible]

[illegible]

Quin [illegible]

Trid. sess. 24. de reformat. cap. 16.

requirit, ut mores et vita ante acta habeat [illegible] quinquennio [illegible] graventur [illegible] Dignitat. Doct. Garcia de benef. [illegible] Duarenus [illegible] Sacerdotem [illegible] Imperatoria Magistros [illegible] C. de professoribus [illegible] Sacerdote [illegible] publicis Principem [illegible] Hieronymus [illegible] quemadmodum [illegible] ministros spectare neminem dubium [illegible] Sacerdos [illegible] populo orare [illegible] placare Deum [illegible] Doct. [illegible] dignus Dei ministerio [illegible] observatur, ut nemo ad Sacerdotium [illegible] facta. D. Paulus [illegible] ad Timotheum c. 3. et ad Titum [illegible] recipere [illegible] publice [illegible] Doct. [illegible]

6\. [illegible] sacro ministerio arcetur [illegible] Paulus [illegible] criminales [illegible] loquatur, ti de [illegible] presbyteris [illegible] Ecclesiastici [illegible] Paulus, ut facile appareat [illegible] vita [illegible] ab illis [illegible] nulla nota infamia notatus [illegible] Corrasius de [illegible] infamia [illegible] L. unica C. de [illegible] de dignitatibus [illegible] Molina [illegible]

Ex qua doctrina apparet [illegible]

8\. [illegible] accusatus de crimine pendente accusatione [illegible] ad ordines ecclesiasticos [illegible] infamia [illegible] Canonis [illegible] adversus [illegible] graves [illegible] opinio [illegible] infamia [illegible] de dignitatibus [illegible] C. de decurionibus [illegible] infamia [illegible] Ecclesiasticos [illegible] Paulus [illegible] accusatus [illegible] de crimine [illegible] pendente accusatione [illegible] Doct. [illegible]

Cui [illegible]

9\. [illegible] accusatione [illegible] pendente [illegible] adulterio accusatus [illegible] accusatus [illegible] Doct. [illegible] infamia [illegible]

[illegible] muneri ecclesiastici [illegible], et ita [illegible] Docet Panormit. [illegible], et Abb. [illegible] n.° 11. =

10

Nec obstat 2.ª Dubitandi ratio desumpta ex [illegible]

[illegible] accusatus [illegible] statu remanere, ac erat ante accusationem, [illegible] relinquere [illegible] accusatus tanquam in [illegible] statu [illegible] ad dignitates [illegible] videbatur. = [illegible] de novo honore [illegible] accusationis [illegible] retinendo. [illegible] tradit [illegible] Quare [illegible] honore, [illegible] pendente accusatione [illegible] novum honorem petere [illegible] col. 8. [illegible] col. 4. Docet Abb. [illegible] 16. n.° 11. [illegible] = Itaque [illegible] decessit [illegible] accusato [illegible] malevolis, et ingrauato apud graues et bonos viros, [illegible] Joannes Andreas [illegible] quod refert [illegible] [illegible] alioquin facillime [illegible] pateret [illegible], et [illegible] impediendi ad assequendum beneficium [illegible] [illegible] apud graues [illegible] infamia [illegible] beneficium [illegible] absurdum [illegible] liberi [illegible] Nauarra. Garcia [illegible] n.° 7[illegible]. =

12.

Ex quibus [illegible] eandem Decisionem [illegible] [illegible] appellationibus [illegible] Cancellarius [illegible] ad Praepositum Sancti Saluatoris [illegible] electus, [illegible] Decanus [illegible] ad Sedem Apostolicam appellauit [illegible] electus [illegible] in praesentia [illegible] noluerit explicare. [illegible] Romanus appellationis [illegible] Decanus [illegible] decreuit [illegible] confirmationem [illegible] impedire, [illegible] Praepositum [illegible] electus [illegible] exceptionis [illegible] habeat [illegible]. Ex quo [illegible] apparet Cancellarium electum pendente [illegible] dignitatem [illegible] recipere [illegible]. [illegible] gravius [illegible] Decanus calumniose [illegible] electus [illegible] ad Sedem Apostolicam appellans, [illegible] appellationis [illegible] legitima [illegible] fuisset [illegible] admissa fuit. [illegible] in hac [illegible] pendeat, [illegible] potuit [illegible] confirmationem electionis impedire. = Vel [illegible] Dicendo cum Panormit. [illegible] accusationis [illegible] pendente accusatione [illegible] promoueri [illegible] debet [illegible] tradidit, [illegible] Cancellarius ante accusationem, et appellationem electus [illegible] erat. [illegible] ad Praepositum [illegible] fuit, [illegible] deberet, [illegible] et Decisio locum habere [illegible] potuit. =

13

Rursus [illegible] in memoriam [illegible] accusationis [illegible] Abbatis [illegible] benedictionem impenderet, [illegible] benedicere vellet, [illegible] ad Sedem Apostolicam appellauit [illegible] accusare [illegible] mandatum [illegible] in hac [illegible] quatenus [illegible] Abbatis [illegible] benedictionem [illegible] differat [illegible] appellationis [illegible] appellans [illegible] fuisset Abbatis [illegible] Ex quo [illegible] pendente accusatione, [illegible] benedictionem [illegible] ad Abbatis dignitatem promoueri [illegible] accusata [illegible] accusatio [illegible] honores promoueri. Hanc difficultatem [illegible] Panormit. [illegible] dicens [illegible] accusatio actualiter pendebat, [illegible] accusati impedire, [illegible] in qua nulla actualis accusatio pendebat, [illegible] Abbatis [illegible] accusauit, [illegible] fuit admissa accusatio [illegible] potius [illegible] ab accusando fuit repulsus, [illegible] nulla [illegible] accusationis [illegible] posset Abbatis benedictionem [illegible] Panormit. [illegible] [illegible] quare accusatus [illegible] talis accusatio facta [illegible] infamia [illegible] infamia, [illegible] apud bonos, et graues [illegible] aliquos [illegible] Cum [illegible] Declarat, [illegible] accusatio [illegible] infamia [illegible] et graues viros, [illegible] accusatio calumniosa [illegible] malo animo [illegible] merito [illegible] benedictio Abbatis [illegible] impediri [illegible] [illegible] n.° 7. =

Videndum

Deinde [illegible] ad [illegible] suscitari [illegible] q. 8, ubi [illegible]

[illegible] sacerdote inadvertenter [illegible] debuisset [illegible] notato [illegible] accusato [illegible] accusatio illata [illegible] et [illegible] criminibus. Ex quo [illegible] statum qui accusatus [illegible] accusationis illatæ [illegible] sacerdos accusati ante [illegible] accusationis [illegible] accusati [illegible] videtur. Dicendum [illegible] accusat. [illegible] difficultatis [illegible] ab honoribus ordinis [illegible] repellendum [illegible]. Id [illegible] doctrina, quæ inter [illegible] casus [illegible] quo agitur de muneribus ante accusationem [illegible] pendente accusatione accusatus [illegible] privat [illegible] et inter [illegible] quo accusatus [illegible] accusatus ob infamiam munera. Quum [illegible] accusationis [illegible] eligi [illegible] electo [illegible] accusatio [illegible] accusatus [illegible] doctrina [illegible] accusatus [illegible] muneribus [illegible] impedit, ut ex [illegible] colligitur [illegible] loquitur [illegible] illo accusatus sacerdotis in statum [illegible] donec criminis [illegible] sacerdote agebat [illegible] sacerdotis muneribus, quibus ante accusationem fungebatur, [illegible] post accusationem [illegible] fungi posse [illegible] accusationis pendentia promotionis ad honores [illegible] ordinis [illegible] prohibet fungi honoris [illegible] dici [illegible] cap. [illegible] ut lite pendente, de seculares 35. q. 2. c. multum 35. q. 6. cap. [illegible] 25. q. 3. [illegible] cap. [illegible] verbo sententiæ [illegible] q. 4.

15 Deinceps [illegible] ab honoribus [illegible] appellatio interposita [illegible] de crimine accusatus [illegible] interposita, et de ad honores adscendere [illegible] accusatus [illegible] repellit accusatus [illegible] difficultas [illegible] reg. 7. § [illegible] de muneribus [illegible] honoribus, ubi Martianus [illegible] honores [illegible] appellatio [illegible] pendente appellatione honores [illegible] ex quo [illegible] qui honoribus [illegible] abstinere [illegible] honoris [illegible] docet [illegible] appellatione interposita ab honoribus [illegible] repelli docet [illegible] loquitur de honore [illegible] quo accusatus [illegible] Decretis [illegible] honore [illegible] accusatus fungebatur [illegible] honore [illegible] tractare [illegible] lite pendente privatur accusatus [illegible] casu Martianus loquitur [illegible] honoris [illegible] abstinere [illegible] honoris debebit [illegible] crimine [illegible] infamia [illegible] appellaverit [illegible] appellatio [illegible] infamia [illegible] ad honores impediat [illegible] C. de dignit. [illegible] interposita [illegible] interpositæ [illegible] § [illegible] infamia L. 2. [illegible] decisione pendente appellatione [illegible] infamiam irrogat [illegible] appellat [illegible] Abbas [illegible] Solemnis [illegible] columna [illegible] decisione [illegible]

16 Denique [illegible] accusatio pendente accusatus nec ad [illegible] nec ad ordines [illegible] accusatus [illegible] accusatus [illegible] Abbas [illegible] accusatus [illegible] electio impediri [illegible] accusatum [illegible] impediri electionem [illegible] Abbas [illegible] accusatus [illegible] Differentia [illegible] de muneribus [illegible] lite pendente electio [illegible] eligere [illegible] electo [illegible] ordinatio [illegible] Abbas [illegible] accusatus [illegible] Dicemus si accusatus pendente accusatione [illegible] electus [illegible] absolutus [illegible] observandum [illegible] accusatus post accusationem [illegible]

[illegible] remo[illegible] canone [illegible] quibus accusat[illegible]
[illegible] accusationem pendente [illegible] apud graves, [illegible]
[illegible] calumniatoris [illegible] accusatio [illegible] qualiter, ergo [illegible] calumni[illegible]
[illegible] accusatione pendente accusat[illegible] remanet [illegible]
[illegible] accusatus [illegible] accusator [illegible] removendus erit quamvis [illegible]
[illegible] colligitur ex [illegible]

[illegible] incap. nullis [illegible]

Ut meliori modo [illegible] sententiae [illegible] quae valeat, species [illegible] fuit [illegible]
Maximus [illegible] oportet, itaque [illegible] legitimus [illegible]
[illegible] dignus [illegible] familiares [illegible] accusare [illegible]
[illegible] except[illegible] fuit [illegible] repellendis [illegible] accusat[illegible] et malae famae, et [illegible]
[illegible] accusator [illegible] decidit [illegible] familiares non obstante [illegible]
[illegible] admittendos, [illegible] ab accusat[illegible] repellere, quos a sua familiaritate [illegible]
[illegible] accusat[illegible] repellere non [illegible] a sua familiaritate separare neglexerunt [illegible]
[illegible] nulli [illegible]
[illegible] Abbas Panormit. [illegible] Antonius [illegible] Collect. Decret. [illegible]
[illegible] Tiberius Decianus [illegible] tract. criminal. [illegible]
[illegible] Barb. in Collect. [illegible]

Quamvis autem [illegible] verissima sit, sequentem dubitam[illegible]
[illegible] imperatores Diocletianus et Maximianus [illegible] accusare
[illegible] habere accusandi [illegible]
[illegible] accusare [illegible] exceptionis [illegible] accusatori [illegible]
[illegible] repellere, [illegible] accusat[illegible] repulsis [illegible]
[illegible] dubitandi [illegible]
[illegible] clericos accusare [illegible] ut familiares [illegible] laici sint, [illegible]
[illegible] familiares [illegible] laici sint, [illegible] accusare [illegible] repellere [illegible]
[illegible] decidit [illegible] a sua accusat[illegible] accusat[illegible] separare [illegible]
familiaritate separare neglexerunt. [illegible] familiares [illegible] repellentur.

[illegible] non obstantibus [illegible]
[illegible] accusat[illegible] repellere [illegible]
separare neglexerunt. [illegible] intelligentia [illegible]
[illegible] episcopus [illegible] dignitatibus [illegible]
[illegible] Cardinales [illegible] Cardinales [illegible] episcopatu [illegible]
[illegible] Cardinalatus dignitas [illegible] Abbates, Decani, [illegible] prelati [illegible]
[illegible] Clemens [illegible] Bonifacius [illegible]
Panormit. [illegible] Decianus [illegible]
[illegible] Geminianus [illegible] operatur [illegible]
[illegible] Cardinales [illegible] Decani [illegible]
[illegible] Cardinales [illegible]
[illegible] Cardinalis dignitas [illegible]
[illegible] Cardinales [illegible]
[illegible] Cardinales [illegible] Archiep[illegible]
[illegible] Cardinales [illegible] dignitatis
[illegible] Cardinales [illegible]
[illegible] tamen [illegible]
[illegible]
[illegible] criminibus [illegible]
[illegible] criminalibus [illegible]

Marginal notes:

familiares [illegible]

[illegible] putaret [illegible] deberet [illegible] dignitas

[illegible]

[illegible] accusare [illegible]

Et conjectabile eorum accusare possunt qui decepti auth. creati ... agit, ... claudat qui ... quos ... solverit et ... Bartolus in l. depositum ... tractatum. =

Igitur est ... status, et ... collocat,

exemplo ceteris ... delinquenti ... personas, ... dignitatis ... in ... offendi, et ... delicti crescit ... in ... C. de ... caveant igitur ... Praelati a criminibus ... in diversa ... in leges ... in genere accusari possunt et debent. gradu ... ut ... accusatores accusatos de crimine ...

Marsilius, qui ... familiaritatem ... excipere adversus ... in ... ac ... adversus accusatores excipere ...

... criminis ... accusatori ...

Doret ... Clarus ... q. ... Nec ... accusatoris ... familiaribus ... criminibus legitimus accusator reputatur, ut ostendit ... familiaribus ... Debentur personas ... honestas ... adversus repellendo ... familiaris ... hoc quod ... in ... quod ... velint ... accusatio ... semel ... semel ... accusat ... Vivianus ... licet. ... quod semel placuit ... l. 46. ... tractat ... Bald. ...

... Sanchez ... de matrimonio ... et ... si qualiter qualiter ... admittit criminosi accusatores, ... Nec ... sed ... Abbas ... Tiraquellus, ... antiquiores ... opposita ... deducta ...

... ab ... dehis qui accusare possunt, et qua ... in domo alicuius ... accusare ... hanc difficultatem ... familiares ... ab accusatione repellendos ... Tiraquellus ... Panormit. ... et ... Ciaves ... ut ... ab ... Panormitano, ... familiaritate. ... Panormitanus, ... familiares in domo alicuius ... admitti accusatores ... familiaris ... honestas ... delicto ... testimonium ... familiaris. ... familiares ... repellendos ab accusatione ... Deducta ... Decretum de testibus, quae ... familiares ... semper debent habere, ... familiaris ... antiquorum ... familiares ... repellendos ab accusatione ... de familiaribus clericis ... admittuntur ... clerici, ... Tiraquellus ... Felinus ... Tiberius ... intelligendum ... Panormit. ... Decianus ... cap. 14. n. 3. =

Ex quibus ... Decianus ... l. 3. q. 11. ... familiaribus ... de his qui accusare possunt. ... familiares ... habitant, ... accusant ... Imperatores Arcadius et Honorius ... l. 20. ... familiaris ... dominos ... accusatores ... familiaris ... hoc ... Difficultas ... honestas ... repellere ... familiares ... accusatores ex ... criminis ... repellere ... accusatores ... familiares ... obiectio. ... accusare ... crimen ... familiares ... accusatores ... publicum, ... l. 20 ... familiares ... familiaritate ... Felinus ... Tiberius Decianus ... cap. 14. n. 26. ... n. 27. ... patronos ... accusare ... accusatorem ... de his qui accusare possunt ... patronos ... libertatis. Libertos ... libertis, ... Speculat. ... accusare ... =

Tiberius Decianus de d. l. c. 14. n. 11.

Dicat qui ... Bartolus ... ff. de ...

... domo ... denegatur,

... Tiraquellus ... patr. ...

per libertos dicamus [illegible] cum [illegible] inspiciatur [illegible]. [illegible] Canonico liberti nec patronos, nec quoslibet [illegible] extraneos accusare possit. [illegible] tamen in cap. [illegible] 3. 95. tradit liberum dicam [illegible] =

Rursus exlabi [illegible] decidendi [illegible]

Ad [illegible] in cap. Accusatores 2. 3. 95. ubi [illegible] Calixtus Papa referat aliquot personas, quas ab accusatione [illegible] removendas esse decernit, inter eos enim in primis enumerat familiares, [illegible] tam ab accusatione quam [illegible] dicendo repellendos fore edocet, [illegible] familiares [illegible] accusatores [illegible] ponere. [illegible] eos adversus recte [illegible] excipere potentes dicentes [illegible] numquam ad accusandum admitti, [illegible] accusatores [illegible]. Difficultas ut dissolvamus, ut quaenam [illegible] interpretemur in illo textu familiares, animadvertimus, hoc verbum familiares variam acceptionem in iure habere. [illegible] servos familiares illi [illegible] dicuntur de aliquorum familia et domo, [illegible] exstat [illegible] in litteris [illegible] [illegible] L. pronuntiatio 95. §. 1. [illegible] de V. S. [illegible] dicuntur, et appellantur [illegible] sanguinei [illegible] adscriptitii, mercenarii, filii in potestate, liberti, et denique [illegible] qui in alicuius domo habitant [illegible] in textibus de familia [illegible] [illegible] [illegible] familiares qui familiares [illegible] episcopi dicuntur, de quibus in cap. [illegible] de clericis [illegible] [illegible] cap. [illegible] §. [illegible] quinque [illegible] familiares [illegible] vocantur [illegible] familias, et [illegible] servitio [illegible] [illegible] [illegible] in cap. [illegible] de clericis [illegible] [illegible]. Quibus ita cognitis, [illegible] apparet iam recte, [illegible] quod in cap. accusatores et [illegible] familiares, [illegible] qui in alicuius domo [illegible], quique [illegible] accusatione repellendos esse, domesticorumque testimonium omni [illegible] [illegible] in [illegible] litteris [illegible] L. 2. [illegible]. Quapropter [illegible] aliqua [illegible] interveniente [illegible] falso testimonio [illegible] ita [illegible] familiares accusare velint aliquo [illegible] occupatos [illegible] [illegible]; et ne [illegible] ingratitudinis [illegible], quae [illegible] [illegible] familiares [illegible] repellit, a quo [illegible] excipiuntur familiares [illegible] [illegible] accusatione [illegible] [illegible] talis personae [illegible] familia [illegible] [illegible] Decidendi [illegible] dicimus.

Olim itaque familiares [illegible] [illegible] erant [illegible] 1. Sat. cap. 11. quod antiquiores observarunt [illegible] ut dominus pater familias, servos vero familiares [illegible] Seneca [illegible] ep. 47. [illegible] familiares appellarunt, servos [illegible] adhuc [illegible] familiares.

[illegible] Ludovicus Gomesius in regula de impetrationibus beneficiorum vacantium per obitum familiarium [illegible] q. 22 [illegible] [illegible] in praxi beneficiali [illegible] [illegible]

[illegible] in c[illegible] de [illegible]

Licet [illegible] exposi[illegible] [illegible] ut erat [illegible] qui [illegible]
Decret. [illegible] [illegible] accusari [illegible]
[illegible] semel accusatus et condemnatus [illegible] absolutus [illegible] iterum accusari [illegible]
Bur[illegible] [illegible] [illegible] condemnatio [illegible] crimine delicti
[illegible] [illegible] [illegible] delatus [illegible]
iterum accusari [illegible] [illegible] [illegible] de sepulcro violato [illegible]
35. [illegible] notandum [illegible] [illegible] violati [illegible]
l. qui de crimine, [illegible] homicidij [illegible] de custodia reorum [illegible]
[illegible] de accusationibus [illegible]
[illegible] [illegible] [illegible] part. [illegible] Coll. [illegible]
[illegible] Innocentius [illegible] [illegible] resolut.
var. cap. [illegible] de catholici[illegible] criminali [illegible]
criminali [illegible] Bernard[illegible] Diaz [illegible] [illegible]
[illegible] var. [illegible] [illegible]
[illegible] [illegible] [illegible] Decret. [illegible]
[illegible] Barbosa [illegible]

[illegible] [illegible] authoritatibus [illegible] accusatus [illegible]

Difficilius [illegible] [illegible] [illegible] [illegible] de crimine [illegible]
[illegible] [illegible] de [illegible] delicto accusari [illegible] condemnatus, iterum accusari [illegible]
[illegible] absolutus de crimine
[illegible] [illegible] [illegible]
iterum [illegible] accusari [illegible] [illegible] criminaliter accusari [illegible]
accusatus [illegible] absolutus, iterum [illegible] criminaliter accusari [illegible]
civiliter [illegible] criminali [illegible] [illegible] accusatus [illegible] absolutus [illegible]
iterum ad versus [illegible] accusari [illegible]

[illegible] condemnatus iterum accusari [illegible]
[illegible] accusatus de crimine [illegible] absolutus [illegible] condemnatus [illegible]
[illegible] [illegible] [illegible] [illegible]
[illegible] accusatus [illegible] [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible]
3. [illegible] accusator [illegible] [illegible] habet [illegible]
[illegible] C. de accusationibus [illegible] delatus [illegible]
accusari iterum [illegible] Plures alij [illegible]
[illegible] Coll. [illegible] var. [illegible]
[illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] absolutus
[illegible] [illegible] [illegible]

[illegible] semel accusatus [illegible] condemnatus [illegible] absolutus [illegible]
iterum accusari de eodem crimine [illegible]
[illegible] [illegible] [illegible] [illegible]
[illegible] semel [illegible] [illegible] delicti [illegible]
[illegible] de delicto [illegible] semel absolutus [illegible] crimine [illegible]
l. si cum [illegible] de accusationibus [illegible] Coll. [illegible] var. [illegible] [illegible] crimine [illegible]
[illegible] [illegible] [illegible] iterum accusari [illegible]
[illegible] [illegible] [illegible]
[illegible] semel dimissa peccata [illegible] [illegible]
[illegible] [illegible] accusare [illegible]
[illegible] [illegible] accusare [illegible]
[illegible] iterum accusare [illegible]
[illegible] [illegible] [illegible]

[illegible] condemnatus de aliquo crimine, iterum accusari posse [illegible]
[illegible] [illegible] condemnatus [illegible]

[illegible] accusari coram [illegible] iudice [illegible] sententia [illegible]

[illegible] examinatus [illegible] satisfaciendum [illegible]

[illegible] criminum [illegible] ex delicto [illegible] c. 3. q. 6. [illegible]

[illegible] oporteat [illegible]

[illegible] publica [illegible] absque [illegible] publice [illegible]

[illegible] accusatus [illegible]

[illegible] publica [illegible] [illegible] gravia [illegible] occulta [illegible] publica poenitentia [illegible]

Ex quadam [illegible] Cardinalis [illegible]

[illegible] iudicibus secularibus [illegible] Cardinales [illegible] delicto [illegible] legales. Ex qua decisione [illegible]

[illegible] semel accusatus [illegible] criminum [illegible] accusari [illegible]

[illegible] specialem [illegible] Cardinales [illegible]

[illegible] generale [illegible] a iudice seculari [illegible]

[illegible] ecclesiastico [illegible] a seculari puniri [illegible]

[illegible] a iudice ecclesiastico impositus.

Quare [illegible]

aliud grave crimen [illegible] quale in sacrilegium [illegible] sacrilegiis, blasphemiis [illegible]

[illegible] generale [illegible]

[illegible] ecclesiastica [illegible] a iudice ecclesiastico [illegible] ad criminis [illegible]

Secularis [illegible] accusari crimenque [illegible] examinari [illegible] puniri [illegible] Ioannes Andreas [illegible]

[illegible] iudex ecclesiasticus [illegible] crimen [illegible]

[illegible] iudice ecclesiastico [illegible] crimine [illegible] secularis [illegible]

[illegible] crimen [illegible] tractari [illegible] seculari puniri [illegible] iudices seculares [illegible]

[illegible] col. [illegible] n. 22. [illegible]

[illegible]

Secundo [illegible]

[illegible] a iudice ecclesiastico [illegible] seculari [illegible] puniri [illegible]

[illegible] seculari iudice [illegible] ecclesiastico [illegible]

[illegible] ecclesiasticos, seculares [illegible]

[illegible] ordinaria [illegible] criminis puniri [illegible] iudici seculari [illegible] remitti, ut eos animadvertat [illegible]
[illegible] accusatione [illegible] ab [illegible] [illegible] ad [illegible]
[illegible] absolutione [illegible] et clericus [illegible] sacerdoti [illegible]
[illegible] notandum de [illegible]

[illegible] libellum [illegible]

accusationis [illegible] libelli [illegible] generaliter [illegible]
[illegible] delicti [illegible] accusatio [illegible] repetendi [illegible]
[illegible] libelli [illegible] legitime ordinatis [illegible] absoluta [illegible] et ex integro repetendi [illegible]
[illegible] absolutus [illegible] accusari [illegible] de [illegible] criminis [illegible] accusatus [illegible]
[illegible] accusatio [illegible] absoluto [illegible] debet [illegible] accusatus [illegible] diffinitive
[illegible] absolutus [illegible] innocens [illegible] eodem crimine [illegible]
[illegible] innocens absolutus [illegible] absolvitur [illegible] puta mulier [illegible]
[illegible] accusator [illegible] Casu [illegible] absolutus [illegible] molestari [illegible]
[illegible] intelligendum [illegible] accusari, et [illegible] crimine [illegible] deducantur [illegible]
[illegible] intelligendi [illegible] libellorum [illegible] libelli [illegible]
[illegible] crimine [illegible] patroni [illegible] docent [illegible] Felinus [illegible]
[illegible] Bart. [illegible] accusat. [illegible] absolutus [illegible] accusari [illegible]
[illegible] accusator admitti [illegible] legitimus [illegible]
[illegible] accusationis tempore [illegible] accusat. [illegible]
[illegible] accusandi [illegible] repellantur [illegible]
[illegible] notatur Felinus [illegible] repellantur [illegible]

[illegible] Officialis [illegible]

[illegible] publica [illegible] mulieris [illegible] supplicio [illegible]
[illegible] remiserint [illegible] petentis [illegible]
[illegible] crimine accusatus [illegible] absolutus [illegible] crimine [illegible] accusatio [illegible] criminis
[illegible] absolutus [illegible] [illegible] Officialis [illegible]
[illegible] semel absolutus de eodem crimine [illegible] accusari [illegible] absolvitur [illegible]
[illegible] transactio [illegible]
[illegible] accusare [illegible] accusari [illegible] crimine [illegible] accusat. [illegible]
[illegible] transigere [illegible] transact. [illegible] accusandi [illegible]
[illegible] criminis [illegible] transactio [illegible] ut [illegible]
[illegible] intelligendum [illegible] de [illegible]
[illegible] transactio [illegible] [illegible] crimine [illegible]
notat [illegible] transigere [illegible] crimine [illegible]
[illegible] Felinus [illegible] Julius Clarus [illegible]
[illegible] notant [illegible] accusatio [illegible]
[illegible] accusante [illegible] accusari [illegible]
[illegible] transigerent post hanc transactionem [illegible]
[illegible] prioris accusationis criminis [illegible] legitimus [illegible]
[illegible] accusatore [illegible] notata [illegible] Cato [illegible] Bart. [illegible]
[illegible] officialis [illegible]

[illegible] Decisione [illegible] placet [illegible]

Theod. et Valent. [illegible] muneris [illegible]
[illegible] muneribus habeantur [illegible] crimine [illegible] debent [illegible]
post delicti [illegible] deportationis [illegible]
[illegible] sacrilegos [illegible] munera [illegible] crimine accusatus [illegible]
[illegible] exilii perpetua puniri [illegible]
[illegible] ordinaria [illegible]
[illegible] appellat [illegible]
[illegible] seculari [illegible] puniri [illegible] iudice [illegible]
seculari [illegible] delictis [illegible] Clarus [illegible] de summa [illegible]
[illegible] Julius Clarus [illegible]
[illegible] infamia [illegible]
[illegible] laicali [illegible]

[illegible] Clarus [illegible]

[illegible] replicatur [illegible]

[illegible] [illegible] abaccusato repellendos [illegible] [illegible] [illegible] ubi [illegible] ab accusat. [illegible] debeant repelli [illegible] Pontifex, [illegible] [illegible] accipiatur, [illegible] inimicus [illegible] [illegible] oporteat [illegible] hostibus [illegible] cap. [illegible] cap. accusator [illegible] 3. [illegible] vel de inimicis [illegible] [illegible] inimicus [illegible] cap. [illegible] [illegible] liberi [illegible] ubi [illegible] habere [illegible] [illegible] amicitias [illegible] inimicus, [illegible] patronus [illegible] [illegible] [illegible] inimicus doceat, [illegible] ultra antiquiores [illegible] Abbas [illegible]. Joannes Andreas, et Joannes de Anania [illegible] et [illegible] Tiberius Decianus [illegible] tractatus criminalis [illegible] 3. cap. 25. [illegible]. Speculator [illegible] accusatore §. 1. n.º 27 [illegible]. Menochius [illegible] de arbitrariis [illegible] [illegible] et [illegible] praesumptionibus [illegible] 5. [illegible] Gregorius [illegible] Petrus Gregorius [illegible] partitionum iuris canonici [illegible] 9. cap. 3. litt. O. [illegible] multis, quos [illegible] [illegible] refert, [illegible] Barbosa [illegible] adhuc [illegible] [illegible].

Scilicet [illegible] testimonijs [illegible] certaque sit, tamen [illegible] consideratione, [illegible] aliqua [illegible] inimicus [illegible] mea repellantur [illegible] [illegible] [illegible] quia [illegible] socijs, et amicis [illegible] inimicos meos, [illegible] falso calumniose [illegible] accusat [illegible] [illegible] videtur [illegible] [illegible] docemur [illegible] mei, socij mei [illegible] [illegible] §. 1. ff. de [illegible] socij 20 [illegible] socio, [illegible] socij mei [illegible] [illegible] inimicos, [illegible] debent [illegible] ab accusat. [illegible] non debent repelli. [illegible] cessat. [illegible] illud [illegible] legitur [illegible] Vassali [illegible] Vassali, mei Vassali [illegible] nec liberi mei liberi, mei [illegible] nec fratres fratres mei, mei fratres [illegible] [illegible] [illegible] cap. legitur [illegible]. l. Modestinus ff. de [illegible] l. Generali §. inter [illegible] [illegible] [illegible] [illegible] debemus [illegible] inimicos accusati [illegible] [illegible] ab accusat. [illegible] repelli.=

Fit [illegible] Textus in cap. [illegible] [illegible]

[illegible] [illegible] de accusat.

[illegible] [illegible] ab accusatione [illegible] inimicus, et [illegible] [illegible] [illegible] [illegible] [illegible] generales [illegible] [illegible] inimicus accusat [illegible] [illegible] [illegible] en los [illegible] [illegible]

Marginal notes (left):

[illegible] cap. [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] 25. De [illegible] [illegible] n.º 1. et 2.º

[illegible] [illegible] [illegible] [illegible]

[illegible] ab accusat. [illegible] [illegible] inimicus a [illegible]

Die 31 ianuarij 1648 — 945

Lib. 5. tit. 3

Praelectio ad tantum in cap. ad nostram de Simonia in pet. Cathedrae
Primariae quae vacavit promot. D. D. Gil. de Castreau collegij [illegible]
[illegible] alumni et auditoris Galliciae, et fuit quod praecepto [illegible] Regij
Senatus fuit [illegible] nobilla cathedra [illegible] erat [illegible]
[illegible] senex D. D. M. de [illegible] auditoris [illegible]
[illegible] quidem [illegible] vacaret [illegible]
[illegible] Martij [illegible] die 4. Men-
sis Aprilis anno Domini millesimo sexcentesimo quadrage-
simo octavo [illegible]
[illegible]

Scheda. 54.

Alexandri 3. [illegible] ... [illegible] in[fra] Directioni [illegible] man-
damus quatenus pro ministerio ecclesiastico exercendo, [illegible] pro Vicariis assignandis [illegible] pro chris-
mate [illegible] pecuniae [illegible] simoniae [illegible] ... [illegible]
[illegible] populus [illegible] nulli clerici [illegible] ... pro ministerio exer-
cendo [illegible] ... Alexander noster tertius [illegible] ... pro
ministerio ecclesiastico exercendo, pro Vicariis assignandis, aut pro chrismate [illegible] ...
[illegible] ... Deluca [illegible] ... ecclesiasticum ministerium exercendi
seu pro Vicariis assignandis [illegible] non [illegible] ... cap. non [illegible]
[illegible] ... cap. [illegible] ... 50. cap. [illegible]

[illegible]

[illegible] ... Arttos [illegible] in [illegible]
simoniacarum quaestionum cap. 32 [illegible] de [illegible] artt. [illegible] de sacris [illegible]
ministeriis [illegible] cap. [illegible] Navarrus in manuali [illegible]
[illegible] ... 33 [illegible]
de simonia 854 per totum [illegible] ... refert =

[illegible] ... Alexandri 3. [illegible] ... appareat, quatenus
[illegible] pro ministeriis ecclesiasticis [illegible] nullatenus pecuniam [illegible]
[illegible] videretur [illegible] ... videatur quod [illegible]
[illegible] exemplo labore [illegible] beneficio [illegible] reperiret [illegible]
[illegible] ... Filius [illegible] ad Corinthios cap. [illegible]
[illegible] qui unquam militat [illegible] ... non manducat [illegible]
[illegible] ... ministerii ecclesiastici exercitio [illegible] ... pro quibus [illegible] ecclesiasti-
[illegible] exercendis [illegible]

[illegible] ... Alexandri [illegible] ...

[illegible] ... Alexandri 3. [illegible] ...
[illegible] ... non [illegible] ... maxime [illegible] expediat explicare
[illegible] ... animadverto simoniae [illegible] nomen
[illegible] ... in Evangelica [illegible] ... in Sama-
[illegible] ... gravissimus [illegible] ... Apostolos [illegible] ... petebat
[illegible] ... manus imponeret acciperet Spiritum Sanctum [illegible]
[illegible] ... perpetravit [illegible] ...
[illegible] Spiritus Sancti pecunia adquiri [illegible] ...
Simon Magus [illegible] ... Apostolos [illegible] ...
[illegible] ... quod venderet, emere [illegible] ...
de poenitentia cap. 9. [illegible] ... de religione [illegible] 4 [illegible]
[illegible] quod simoniaca [illegible] ...
[illegible] ...
[illegible] ... recepit [illegible] ...
[illegible] ...
[illegible] ... Simoniae [illegible] ... simoniae damnandum
[illegible] ... 3. Regum cap. [illegible] ... Jeroboam
[illegible] ... sacerdotes [illegible] manus [illegible] ...
[illegible] ... simoniae [illegible] ...
[illegible] ... Simonem [illegible] ... primum [illegible] ...
[illegible] Studet [illegible] ...
verum Simoniacum [illegible] ... legem Evangelicam [illegible] ...
[illegible] Huic [illegible] ... fatemur quod
[illegible] ... emptores [illegible] venditores [illegible] spirituali [illegible] ...
ante legem [illegible] Evangelicam [illegible] ... venditio [illegible] ...
non tamen [illegible] ... emptor [illegible] ... venditor [illegible] ...
[illegible] ... venderet [illegible] ... Simonis [illegible] ...

[illegible]

2.°

n.° 7.
Giezi fuit Simo-
[illegible] et [illegible]
[illegible] ... Giezi
[illegible] ...
[illegible] dant [illegible] ...
[illegible] ... de simonia [illegible]
[illegible] dicat

Mago à Simone, cum ipse primus fuisset qui Vocē Voluere Divinum Hoc est [illegible] verum Spiritualium fingeret. ita Docet Suarez Ubi 8. 8. predictis Sacre Paxinis authoritas supra adductis Nihil obstant, cum nec in Ieçi, nec in Jeroboam, nec in Juda exstoinis [illegible] Vendi ministerium invenirent. = Huc expectat illa [illegible] in elegans animadversio Scilicet Haeresim Simonis [illegible] exorsum esse [illegible] quae in Ecclesia post Christi in coelo ascensionem orta est quae unde illico redarguit Divus Petrus dicens Pecunia tua tecum sit in perditionem quoniam Donum Dei existimasti pecunia possideri. Sic Docet Suarez loco supra citato, [illegible] [illegible] [illegible] cap. 35 [illegible] Hic autem Simon Magus post [illegible] Apostolorum [illegible] [illegible] ad [illegible] Divi Petri Penitentiam subdentis [illegible]. [illegible] inventor fuit, multos que Habuit sectatores, quos [illegible] more recenset [illegible] in Breviario [illegible] [illegible] pagina [illegible]; de Huius enim Simonis Magi [illegible] et Morte [illegible] [illegible] [illegible] [illegible] [illegible] Calixtus lib. 2 cap. 36 Eusebius Caesariensis lib. 2. Historiae Ecclesiasticae cap. 1. [illegible] Plures =

[illegible] Plures Scienduz est Simoniam Varie ac Diversimode ab interpretibus [illegible] Solere Verum [illegible] [illegible] Verior et receptior est, Simonia est Studiosa Voluntas Emendi [illegible] Vendendi pretio temporali Aliquid Spirituale Vel Spirituali annexum quae Colligitur ex cap. [illegible] [illegible] de Verum permutatione [illegible] tradunt praeter Scribentes in Materia [illegible] [illegible] [illegible] [illegible] 2. 2. q. quaest. 100 art. 1. Palutianus in 4. [illegible] Scribentes omnes fere Sumpta [illegible] [illegible] quae Simonia tunc [illegible] Simonia Dicitur Cum quatuor inveniantur Conditiones quarum prima est Studiosa Voluntas, idest deliberata [illegible] emendi Vel Vendendi Cum effectu [illegible] Spirituale pro temporale, [illegible] si tradens Pecuniam non Habet Intentionem eam tradendi [illegible] [illegible] [illegible] Sed [illegible] non committit Simoniam, [illegible] Studiosa Voluntas emendi Vel Vendendi Secunda Conditio est ut Contractus non Gratuitus in Simonia interveniat, qualis est Permutatio [illegible] et Alii Similes qui Verbo Venditionis comprenduntur Juxta [illegible] in l. Sicut [illegible] Venditionis [illegible] [illegible] [illegible] Vel Hypotheca [illegible] = 3a Conditio est ut accedat Pretium temporale quo Deficiente [illegible] [illegible] non committitur Juxta [illegible] [illegible] loco citato =. 4a et ultima Conditio est ut [illegible] [illegible] aliquid Spirituale, Vel Spirituali Annexum [illegible] ut tradit Suarez Ubi [illegible] [illegible] [illegible] quatuor Conditiones Hoc est Studiosa Voluntas, Contractus non gratuitus, [illegible] [illegible] aliquid Spirituale Vel Spirituali Annexum ut qualibet Definitione Simonia [illegible] Continetur =

[illegible] Amplius animadvertendum est Simoniam Hanc de qua Noster Sermo est, [illegible] diversimode ab interpretibus Dividi solere quippe Secundum Communiorem [illegible] alia est [illegible] [illegible] alia Conventionalis Alia realis. Simonia mentalis illa est quae Mente et Intellectu [illegible] absque re Vel pacto [illegible] Cum quis verbi gratia dans Vel Recipiens desiderat [illegible] quod intendit Vendere Spirituale Vel Spirituali annexa de qua Simonia loquuntur [illegible] in cap. [illegible] [illegible] in cap. [illegible] Multis [illegible] Conventionalis Vero Simonia est in qua [illegible] Solum mens et Intentio Verum etiam Conventio Vel Pactio dandi temporale Pro Spirituali [illegible] [illegible] [illegible] intervenit [illegible] loquuntur [illegible] in cap. Cum [illegible] de [illegible] cap. [illegible] non [illegible] [illegible] cap. per tot. Hoc nostro [illegible]. Denique Realis Simonia illa est Cui non sola Mens [illegible] Conventio Sed etiam rei traditio accedit quae Vera et perfecta Simonia est: Ex quibus omnibus Simoniae speciebus Alia Simonia est. Simonia quia mala, alia Simonia est quia prohibita de hac posteriori Simonia quia Prohibita Noster [illegible] intelligendus est ut tradit Suarez [illegible] cap. 23 per totum =

[illegible] Denique Sciendum est Simoniae adeo Grave ac Detestabile Delictum esse [illegible] [illegible] [illegible] [illegible] Sparsis [illegible] inaequalis [illegible] Videatur [illegible] detestabilibus ac diversis nominibus [illegible] [illegible] [illegible] [illegible], in cap. [illegible] Hoc [illegible], [illegible] in cap. [illegible] Dominus 3. [illegible] [illegible] [illegible] in cap. reperiuntur 1. q. 1., [illegible] in cap. nobis 27 [illegible] [illegible] [illegible] cap. [illegible] Hoc [illegible] [illegible] omnia [illegible] Uno Verbo omnia comprendam Haeresis [illegible] [illegible] [illegible] cap. [illegible] [illegible] cap. Benedictio [illegible] cap. Cum liqueat 1. 3. q. [illegible] aliis [illegible] [illegible] itaque Certum est Simoniam [illegible] Natura et qualitate attenta inter Crimina ac Delicta graviora ac detestabiliora Numerari [illegible] quod et si [illegible] [illegible] [illegible]

Videtur infringi argumento 13. Navarri [illegible] in cap. quid in omnibus 16. 32 q. 7. [illegible] quid in omnibus peccatis adulterio est gravius. secundum namque in ordine obtinet locum quoniam [illegible] illi habent qui aberrant Deo, etiam si sobrie vixerint: ex quibus verbis aperte colligitur adulterium [illegible] primum, tamen secundum locum inter [illegible] [illegible] superare adeo aberrantes igitur simonia gravius ac detestabilius crimen non est.

: 2° difficultas [illegible] [illegible] in cap. licet [illegible] hoc nostro [illegible] crimen lesæ maiestatis adeo grave esse ut primum obtineat sedem inter omnia ergo simonia omnibus delictis gravius non est. Huic gemine obiectioni gemina occurrit satisfactio. non enim negamus plura delicta in [illegible] esse que secundum aliquam circunstantiam sint graviora simonia at [illegible] attenta natura et qualitate simonie asserimus nullum gravius ac detestabilius crimen simonia esse, nec quidquam [illegible] [illegible] authoritates [illegible] in d. cap. quid in omnibus 32 q. 7 ex quo probaremus adulterium gravius ceteris peccatis esse nam hoc intelligendum est respectu mariti qui molestum id patitur etiam propter filios [illegible] [illegible] [illegible] mater [illegible] nec denique obstant [illegible] in d. cap. per plures [illegible] in d. cap. licet [illegible] nam [illegible] ostet crimen lesæ maiestatis gravius quam cetera crimina puniri, hoc tamen intelligitur ad terrorem at hoc scilicet [illegible] [illegible] huius [illegible] terrore [illegible] perpetratis abhorreant quod in eo specialiter [illegible] ita docet Suarez in d. cap. 13 per totum = quod autem simonia gravissimum sit delictum, sic [illegible] in omnibus ministeriis ecclesiasticis reiicienda probari potest ex exemplo cuiusdam [illegible] episcopi relato per Baronium anno 155 qui cum esset accusatus de simonia et iussus proferre verba illa Gloria Patri et Filio, et Spiritui Sancto defecit post prolata verbum Patri et Filio, nec unquam potuit proferre sequentia, Spiritui Sancto, quod in hoc crimine [illegible] [illegible] voluit Deus in dubio exemplo [illegible] [illegible] [illegible] [illegible] defecit in voce et Spiritui Sancto. non in reliquis quia directo iniuria Spiritui Sancto fiebat cum ipse gratia sit; =

Quibus ita praelibatis, paret iam [illegible] esse nostri Pontificis assertio scilicet [illegible] [illegible] exercentibus, pro [illegible] [illegible] [illegible] vicariis assignandis nullatenus pecunias exigendas cuius doctrine ratio non [illegible] [illegible] in ipsius simonie prava ac detestabili natura quippe hoc [illegible] satis [illegible] [illegible] videtur nam cum hec omnia [illegible] nostri [illegible] [illegible] convenirent [illegible] [illegible] [illegible] que gratis [illegible] quam [illegible] in [illegible] et criminosum foret, cum [illegible] harum rerum ministri sint sacerdotes qui a tali labe omnimodo debent abstinere merito noster Pontifex statuit pro ministeriis ecclesiasticis exercendis pecunias exigi non posse, quam decidendi rationem tradit [illegible] [illegible] = [illegible] iam [illegible] [illegible] illa [illegible] [illegible] propositionis nam dicendum est duplicem laborem in hominibus sacra ministeria administrantibus inveniri alter labor est precedens et non necessarius nec intrinsecus administrationi [illegible] est ille pro quo accipiunt [illegible] decimas et primitias de quo infra dubitandum erit. Alter 2° labor est intrinsecus administrationi et in quo ipsa sacramenti administratio consistit qualis est qui impenditur in celebrando, audiendo confessione et reliqua sacramentalia exercendo de quo intelligendus est noster [illegible] hoc namque labore asserimus pecuniam nullatenus exigendam iuxta ea que tradit Andreas Baiensis [illegible] ad [illegible] de simonia [illegible] =

Ex quibus [illegible] deciditur imprimis [illegible] nostrum [illegible] quatenus [illegible] pro [illegible] [illegible] non posse exigi [illegible] [illegible] [illegible] animadverto [illegible] [illegible] nominatim [illegible]

Obiiceat et licet vulgo tantum Confirmationis ~~dicitur~~ in Sacramentis intelligatur tamen
non sine duce existimo in nostro tit. non solum pro Sacramento Confirmationis seu verbis
chrysmatis accipi verum pro omni sacro oleo pro quo nichil exigendum quod aperte probatur
ex Decisione in cap. in tantum 35 hoc nostro tit. de simonia ubi Pont. ex. improbat consuetu-
dinem illam qua accipere pecuniae quantitatem pro chrismate consuebant qui quum
timerent canones adversus simoniacos statuta, tempus solutionis faciendae
anticipabant recipientes in media quadragesima quod recipere consuebant post Pascha
denarios quos prius chrismales nuncupabant postea Paschales dixerunt quibus
non obstantibus predictam consuetudinem improbavit Pontifex statuens pro chrismate certam
[illegible] pecuniae quantitatem exigi posse = [illegible] vid. cap. in tantum nummi Paschales
dicantur satis constat, veris existimantibus priscis etiam temporibus Sacramentum hoc confirma-
tionis Paschae tempore dominicae scilicet et Pentecostes ab episcopis celebrare consuebat
[illegible] dum accedat precipuis festivitatibus Baptismus conferri solitus fuerat ut constat
ex tit. in cap. [illegible] et ex cap. duo tempora de consec. dist. 4a quibus temporibus episcopi accipere
solebant ad baptizatos [illegible] confirmandos hinc temporis quarundam oblationem
a populo Christiano dari mos erat non quidem pro pretio [illegible] Spiritus [illegible] estimat.
sed pro affectu et devotione quae [illegible] ita conferri consuevissent ablatae fuerunt, propterea
quod sacra ministeria libere et absque [illegible] conferri debent =

Rursus infero interpretationem ad textum in cap.
Ad apostolicam de simonia ubi proponitur clericos pro benedictionibus nuptiarum
exequiis mortuorum et aliis rebus spiritualibus exercendis pecuniam exigere et extorquere
libere consuetas [illegible] cupiditati satisfacere non foret [illegible] propterea [illegible]
fidelibus desiderata effectum non sortirentur laicos esse qui laudabilem predictam consue-
tudinem infringere volebant sub pietatis pretextu qua in re precipit Innocentius 3us pravas
exactiones fieri non posse pro rebus spiritualibus administrandis et precipit clericorum consuetu-
dinem tanquam laudabilem observari at clerici pecuniam accipiebant pro ministeriis eccle-
siasticis [illegible] tamen hec consuetudo laudabilis est et observari precipitur [illegible]
senti igitur nostri tit. decisio defendi non potest cuius decisionis intelligendae causa
quae plura [illegible] interpretes ut videre licet ex traditis [illegible]
[illegible] cap. [illegible] sequentibus verum ego Panormitani [illegible]
qui [illegible] cap. ad apostolicam consuetudinem illam laudabilem et [illegible]
[illegible] laicos [illegible] quoniam talis [illegible] originem duxit a liberalitate [illegible]
devotione [illegible] offerentium pecuniam in sacramentorum administratione quae
consuetudo [illegible] iusta et rationabilis sit observari debet iuxta ea quae [illegible]
[illegible] ita interpretantur [illegible] q. 100 art. 3 Duarenus [illegible] 6 [illegible]
ministeriis cap. [illegible] = Nec predicto [illegible] impugnant [illegible] in cap. [illegible]
[illegible] in cap. [illegible] sicut pro certo cum pluribus aliis hoc nostro tit.
ex quibus omnibus [illegible] dare aliquid temporale pro administratione sacramentorum
adeo simoniacum esse, ut nec longa consuetudine effici ac statui queat [illegible]
[illegible] decernitur est predicta [illegible] loqui [illegible] consuetudo erat [illegible]
originem [illegible] in iusta causa [illegible] et devotio [illegible]
quando [illegible] devotio consuetudinem [illegible] ut aliquid [illegible]
ministris prestet [illegible] consuetudo laudabilis erit dummodo tamen non nulla interveniat
[illegible] libere [illegible] aliqua [illegible] prestet. 2o quod illud quod datur tan-
quam [illegible] sed laicis prestant quod voluerint iuxta [illegible] in cap. Dilecti [illegible]

+

pa viber pior =

[illegible] confitendorum [illegible] predicatoribus [illegible]

Cap. Sicut pro certo Hoc nostro tt. de Simonia Alioquin requiritur ut non debeatur in pactum, tunc simonia erit cap. cum in ecta cap. Sicut pro certo Hoc tt. imo 8° debet dari ob aliquam iustam causam, puta propter elemosinam vel ministrorum sustentationem vel peccatorum remissionem, et denique quod consuetudo sit ... annorum, que attento nostro tt. cannonicis tempus sufficiens est iuxta Glosam in cap. finali de consuetudine, vero consuetudo tradit Bartolus in l. de quibus n° 4 ff de legibus: quia concurrentibus consuetudinem introduci potest, et pro administratione sacramentorum mediante pia devotione fidelium aliquid ministris prestetur. Nec me ab hac doctrina dimovet sequens observatio scilicet quod in istis que sunt mere facultatis non potest consuetudo inducere ut necessitatis fiant nec ex annua prestatione inducitur consuetudo in futurum aliquid solvendi ut probatur ex textu in l. si certis annis C. de pactis. Similiter quia videretur dicendum in d. cap. ad apostolicam nullam vim posse habere consuetudinem siquidem ex mera liberalitate prestatio illa procedit. Cui difficultati duplex ... dari potest primo dicendo quod quando annua prestatio adest gratuito facta ... causa legitima non potest induci consuetudo quo casu intelligitur tx. in d. l. si certis annis ... si ex aliqua iusta causa sit tunc reddere annorum consuetudo obligatio ... in his que sunt mere liberalitatis ... loquitur ... in l. cum de in rem ff de usuris ita docente Ducareno et aliis. Verbis ... respondere potest dicendo regulam tx. in d. l. si certis annis non habere locum in ecclesiasticis piis causis in quibus eius fabore etiam in mere voluntariis inducitur consuetudo et quamvis regulariter prestationis tempus debeat esse ... tamen fabore piis causis ... interpolatum ita tradit Tiraquellus de Privilegiis pie causae privilegio ...

Deinde infra interpretatus a tx. in cap. ... illis de ... positis ubi Alexander 3 ... decidit homini exigente aliquid ab ea cum qua matrimonium contrahere volebat si ipsa quod promisit non prestet liberum esse ... pacto igitur ... illa prestaret quod promisit ... tenetur adimplere promissa et ad hoc compelleretur ex quo ... pro sacramento matrimonii ... pecuniam exigi posse: cuius difficultatis ... causa non nulli estimarunt in matrimonio intervenire posse datum pecuniae quoniam matrimonium non confert gratiam ita docentes ... in ... materia de ... communicatione ... in cap. quicquid ... quam ... solum ... erronea et hæretica est et ab ecclesia damnata ... matrimonium est sacramentum ... cap. ... de hæreticis cap. ... de divortiis cap. ... Tridentino ... 24 de sacramento matrimonii can. 1. negari non potest quin ... ex concilio Tridentino ubi ... cap. ... tradunt Covarrubias ... parte ... § unico n° ... Navarrus in Manuali cap. 22 n° ...

Quare hac ... omissis dicendum est quod licet matrimonium sit sacramentum ... fuit civilis contractus qui ... Christi ... fin. de ... ut ... in ... fuit enim a principio in paradiso in ... Natura ... propagationem generis humani ... illud Genesis cap. 3° crescite et multiplicamini. Nec tunc ... sacramentum, quia cum non dum esset peccatum in homine non erat ... remedium ... postea institutum fuerit sacramentum novae legis tamen non ... est sacramentum ... prius sit contractus civilis ... provat ... in d. cap. de illis in matrimonio intervenire pecuniam intelligitur non quatenus est sacramentum sed quatenus est contractus civilis ... fuit institutum in ...

10

statuus ad mitum [illegible] [illegible] Sicut Predicatur [illegible] onera [illegible] Sustinere [illegible] Iuxta text. in l. pro Honeribus [illegible] de [illegible] Dotium ita [illegible] Sarmiento lib. [illegible] lectar. cap. 6 n.° 9.

Deinceps Infero interpretation. ad text. in cap. Significatum 22 de praebend. [illegible] Ubi Alexander 3. Asserit pro administratione Eucharistiae [illegible] pretium [illegible] [illegible] praestari posse si quidem Praebenda assignata [illegible] [illegible] [illegible] quod [illegible] [illegible] igitur nostri [illegible] Defendi non potest quae difficultatem [illegible] dissolvunt Interpretes [illegible] [illegible] [illegible] ind. cap. Significatum asserit licitum esse [illegible] Beneficii non habenti [illegible] [illegible] administratione Spiritualium aliquid accipere [illegible] Simonia [illegible] [illegible] ind. cap. [illegible] Simoniam commissam non fuisse: quae solutio defendi non potest nam Iuris principiis adversatur [illegible] Alii dicunt ind. cap. Significatum Simoniam commissam non [illegible] [illegible] pactio non interfuit circa ipsum actum Spirituale [illegible] [illegible] administrationis [illegible] [illegible] sed circa actum antecedentem sacramentum [illegible] [illegible] [illegible] celebrandi [illegible] [illegible] [illegible] [illegible] Simonia [illegible] in actibus antecedentibus [illegible] Spiritualium [illegible] [illegible] celebrandi [illegible] potest [illegible] respectu [illegible] temporalis est [illegible] [illegible] Gutierrez lib. [illegible] Cannonicarum cap. 29 n.° 22. [illegible] si haec solutio non placuit [illegible] ind. cap. Significatum non [illegible] Simoniam [illegible] [illegible] Spiritualium sed Spirituale [illegible] est Praebenda fuit [illegible] [illegible] celebrandi ita tradit [illegible] ind. cap. Significatum [illegible] n.° [illegible] [illegible] [illegible] Videtur ex cap. [illegible] de Elect. lib. 6. [illegible] [illegible] nec Electus [illegible] celebrari [illegible] ind. cap. Significatum [illegible] illa [illegible] [illegible] [illegible] [illegible] tanquam [illegible] [illegible] Cui [illegible] in [illegible] respondendus [illegible] [illegible] [illegible] cum Beneficium [illegible] propter [illegible] cap. [illegible] de [illegible] cap. [illegible] de rescript. lib. 6 [illegible] [illegible] [illegible] Sustantia nec [illegible] actum Iuxta text. in cap. Significatum [illegible] de Elect. ita tradunt [illegible] [illegible] lib. [illegible] [illegible] cap. 16 n.° 15.

Rursus Infero interpretationem. Ad text. in cap. [illegible] de Simonia in [illegible] [illegible] [illegible] interdicitur ne pro Sepultura aliquid exigatur [illegible] Paena adiecta adversus eum qui aliquid exigere tentaverit [illegible] [illegible] est ex his quae diximus pro ratione decidendi ad nostrum Alexander [illegible] Sepultura [illegible] Spiritualibus quia Mediante ipsa plurium bonorum Spiritualium [illegible] anima Morientis [illegible] [illegible] Ne quid exigatur pro Sepultura [illegible] [illegible] [illegible] videtur [illegible] [illegible] Abolendae de Sepulturis ubi [illegible] quod pro [illegible] [illegible] consuetudinis potest aliquid exigi [illegible] permissum [illegible] [illegible] respondendum [illegible] quod pro Sepultura Nichil exigi posse [illegible] Simonia committitur [illegible] [illegible] laudabili [illegible] [illegible] [illegible] [illegible] per modum Elemosinae [illegible] [illegible] Hinc est pro Sepultura Aliquid Accipere [illegible] [illegible] non [illegible] [illegible] sed in Modum Elemosinae [illegible] non admittit Simonia ita Interpretatur Panormitanus in d. cap. Abolendae 43. de Sepulturis n.° 3.° [illegible]

Rursus Infero interpretationem. Ad text. in cap. [illegible] [illegible] lib. 6.
[illegible] cum qui ad [illegible] est [illegible] ad Hoc [illegible] [illegible] [illegible] quantum [illegible] absolvendus [illegible] quod [illegible] [illegible] Solent [illegible] quid [illegible] in [illegible] [illegible] ubi [illegible] [illegible] est in [illegible] [illegible] [illegible] Mora non [illegible] [illegible] cum [illegible] esse [illegible] [illegible] [illegible] Venit ad tempus quod fuit vocato ad Hoc [illegible] [illegible] Necessitate [illegible] [illegible] quantitate [illegible] [illegible] [illegible] [illegible] [illegible] absolvendus fore: ecce text. [illegible] cum Dicat pro Beneficia

Recipiendo Pecuniam Prestari Duare [illegible] Difficultati Respondendum est Dicendo pecunias exigi non posse pro absolutione obsequenda ab excommunicatione nam cum sit actus proveniens ex iurisdictione Spirituali Simonia esset pecunias pro ea exigere nec [illegible] prout textus in d. cap. Benerabilibus § Porro nam Dicendum est [illegible] [illegible] expensas Recte exigi non propterea quod pecunia dari pro ipsa solutione sed ad hoc ut illegui servet [illegible] [illegible] non [illegible] Virtute pacis si fortasse alioquin [illegible] sit [illegible] solvat itaque absolvendus non erit donec expensas predictas persolverit ita Docet Panormitanus in cap. in cap. ad aures 2 q. Hostiens [illegible] [illegible]

Deinde infero interpretationem ad textum in cap. [illegible]

6. V. o Ceterum de religiosis Domibus ex cuius Verbis aperte colligitur licitum esse in rebus Spiritualibus annuas Pensiones constituere illius ecclesie episcopo igitur nostri textus [illegible] defendi non potest — Cui difficultati respondendum est dicendo nec nobis nec insolitum esse ut cum episcopi ecclesias pijs locis dederunt aliquid sibi reservent in eis nomine pensionis ut scribit Pontifex in d. V. o ceterum quo in casu non committitur simonia quia episcopis octo denariorum [illegible] [illegible] [illegible] Pius Precipiebat ab eadem ecclesia temporalis commodi quam erant [illegible] Dennarii quos circa Recte potuit omnia Remittere illos pensionis assignare in signum subiectionis arg. textus in c. 2o de [illegible] ita tradit Suarez [illegible] de Simonia cap. 2 § n. 3 [illegible]

Rursus interpretandus textus in cap. 1. ex 2. et 3. [illegible] [illegible] cui obstat textus in cap. charitatis 45. 12. q. 2.

Deinde textus in cap. fin. 19. 3. quicumque [illegible] [illegible] 30 [illegible]

Deinde infero interpretationem ad textum in cap.

Rursus textus in cap. 1. et 4. Magistris.

[illegible] [illegible] Nav [illegible] 5. Mil. [illegible]

[illegible] [illegible] 4. de Simonia cap. [illegible] et cap. 48 n. 49

[illegible] [illegible] [illegible] cap. [illegible]

[illegible] textus in cap. [illegible] cap. [illegible] cap. 5 [illegible]

[illegible] [illegible] [illegible]

Scheda 55. 950.

Lib. 5. tit. 12.

Actoria de Homicidio

Anno Domini 1666

et 1667.

De Homicidio

Noua et Valde Utilis Expositio

Quo ad difficilem, et elegantem titulum de Homicidio Voluntario: Casuali, et Casuali.

Antiloquium

Alma Mater Academica, cui quasi castores desideravit, semperque oculis habuit Vrais tanquam proprias, o amantissimi auditores, utilius annis praeteritis Curae supremo Regio Consilio proposuere expedire videri tam docentibus, quam discentibus in ijs utriusque Iuris Cathedris perpetuis, ut illarum assignaturis tanquam antiquissimis, et pluribus vacatis invenirentur, earundem locum alijs subrogarentur. hac Consultatione facta supremi Consilij Decreto fuit locum [illegible] huic immutationi, statuitque ut quatuor lectiones antiquae [illegible] tenerentur, Confundando [illegible] principaliores sunt, in transcursu quadriennij regulariter dissimilia fuerunt auditoribus, permisit tamen ut post quadriennium quilibet moderatori sequenti anno, quo vellet sonet in sua facultate [illegible]. Cum enim hoc praeteritis quatuor annis exposuerim materias de Iudicijs, de Ordine Cognitionum, de exceptionibus, et de probationibus, exportulat ordo, et effectus ut nunc quasi [illegible] novam aggrediar. Selegi intervallis conspicuum difficilis, et valde utilis, ultimum [illegible] in hac Universitate expositum, de homicidio voluntario, et casuali, qui titulum continetur in [illegible] Decretalium Nostri [illegible] 9. tit. 12. homicidij et Commendat. ad [illegible] novitates; si vero [illegible] semestris [illegible], ut vinum est desiderium percurrerimus, in parvam utilitatem Vobis adeo [illegible]mus, favete, et animum [illegible], et Deo auspice ordiamur. =

Ad Rubricam

De genere [illegible] homicidij.

Homicidij vero materiam fato valde convenerit: quotidie enim videmus [illegible] cos homines trucidari; quorum [illegible] hoc de [illegible] homines [illegible], cum Cetera cum alijs animalia inter se [illegible] soli homines sibi invicem [illegible], et [illegible] liber [illegible] vunt; [illegible] tamen [illegible], et [illegible] illius, quae exercitium frequenter in republica [illegible] [illegible] [illegible]. [illegible] ad [illegible] ut scribitur in [illegible] 6. [illegible] ad Deum, et dicentes: Usque quo domine non das Iudicium, et Iudicas [illegible] [illegible]: et [illegible] [illegible] [illegible] adulterij [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Veterum homicidij, quod prohibetur [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Verum 9. 23. [illegible]

—311—

16. 32. q. 7. tradentes ita Cobb. in [illegible] Furiorum 2. p. c. 10 de homicidio [illegible] quaest. 57 decalogi [illegible] 5. cap. 1. n. 1. Fanianus in praecept. 4. q. 11 [illegible] Anthonius [illegible] resolut. 3. n. 2. et alij [illegible] =

Homicidium itaque dicitur ab homine, proindeque ad utrumque [illegible]

n. 2.

arg. [illegible] l. hominis [illegible] ff de V. ad Verb. [illegible] [illegible] habeat significat.

De derivat. homicidij [illegible]

tionem [illegible], [illegible] homicidium [illegible] [illegible] sumitur, significat que hominis occisionem; quae quidem occisio [illegible] aut spiritualis aut temporalis, [illegible] dicitur [illegible] detractor [illegible] aliquem famae privat, qui [illegible] homicida appellari [illegible] et [illegible] quis proximum [illegible] habet odio, nec [illegible] alteri [illegible], ut proximo [illegible] noceat, [illegible] tamen [illegible] mali, qua odio alterius habent homicidi appellantur [illegible] [illegible] praedicta occisio [illegible] quis proximo suo modo aliquo nocere [illegible] homicidium [illegible] et denique [illegible] aliquis [illegible] extreme indigenti [illegible] ex [illegible] necare [illegible] peccare videbitur [illegible] [illegible] perforat, sed et [illegible] eleemosinam denegat, [illegible] si quis [illegible] homicidium [illegible] quamvis [illegible] ita Ferbat. [illegible] 9. [illegible] occisione spirituali [illegible] sermo [illegible]; sed solum de occisione [illegible] homicidij corporalis [illegible] corporali [illegible] expedit. =

Verum [illegible] hoc homicidium corporale ab [illegible] definiri solet. [illegible]

n. 3.

Vi hominis definitur, et dicitur occisio hominis ab homine facta, [illegible] occisio [illegible] irrationale occiditur, [illegible] homicidium, sed animalicidium appellandum, [illegible] occiditur ab aliquo [illegible] dicetur proprie occisio, [illegible] [illegible] ad essentiam [illegible] homicidij peccati requiritur, [illegible] [illegible] homicidio [illegible] 31. et 32. [illegible] definitionis singula [illegible] explicat, [illegible] homicidij definitur [illegible] corpus humanum, [illegible] [illegible] homo [illegible] [illegible] aut corpore, [illegible] mortui, aut corpori [illegible] caput abscindens [illegible] homicidij, [illegible] vulnus, qui corpori mortui, [illegible] membrum absciderit [illegible] [illegible] mortuo [illegible] sepulcro violato [illegible] L. 12. [illegible] 7. [illegible] 3. [illegible] 1. 1. [illegible] [illegible] tradit Cobb. [illegible] =

Verum quamvis [illegible] potuit defendi [illegible]

n. 4.

[illegible] proponit [illegible] Sanctus [illegible] Angelicus Praeceptor D. Thomas 2. 2. q. 100. art. 8. ad 3., [illegible] definit [illegible] hominis occisio, [illegible] homicidij absolute, [illegible] siquidem [illegible] homicidium dicatur corporis humani animati [illegible] intervenire [illegible] [illegible] peccati, [illegible] [illegible] occisio [illegible] [illegible] proximi, [illegible] illud, [illegible] prohibetur [illegible] humano, et divino [illegible] decalogi [illegible] [illegible] [illegible] ordine [illegible] Fr. [illegible] Ordine de Ferrariis [illegible]

Cooperatione, animatione, et auxiliatione, quarum mandato et consilij, et auxiliatio et cooperatio referuntur et sic sex modis irregularitas contrahit, singulos exponemus, si divisionem homicidij proposuerimus, ut recte docendi Ordo expostulat. =

n.º 5.

De divis. homicidij [illegible]

Homicidij divisiones varias fuerunt scriptores opiniones, ex Venorii [illegible] dicitur homicidij Voluntarij, Casuale, [illegible] illud dicitur Voluntarium quod dolore et animo occidendi l. 1. [illegible] Cornelij de Sicarijs cap. sicut dignum [illegible] de homicidio, quod liber quo aut facto, aut consilio, aut [illegible] cap. [illegible] Vi [illegible] 50 dist. aut [illegible] cap. [illegible] hoc [illegible] et illud semper abhorret [illegible], nemo excusatus [illegible] qualitercumque fiat. = Casuale homicidij illud est, quod fortuito, et absque Voluntate, et intentione Committitur [illegible] cap. [illegible] 7. cap. ex litteris 24. [illegible] de homicidio, quod dupliciter committitur aut culpa, aut sine culpa, quod culpa [illegible] imputatur, [illegible] minima cap. [illegible] 9. cap. dilectus 27. [illegible] ibidem [illegible] quod [illegible] in sui defensione [illegible] committitur ut [illegible] cap. 2. [illegible] posset [illegible] moderamine inculpatæ tutelæ [illegible] l. 2. [illegible] Cornelij de Sicarijs, [illegible] Vim vi repellere [illegible] l. 3. [illegible] de [illegible] homicidij hoc cum moderamine inculpatæ tutelæ fieri dicitur, [illegible] defensionis [illegible] necessitas [illegible] sed [illegible] injuriam propulsandam [illegible] 2. [illegible] cap. [illegible] 3. [illegible] Cobb. [illegible] 3. [illegible] in [illegible] homicidij [illegible] et alij plures tamen ex [illegible] quam homicidij [illegible] Salman [illegible] tracto 3. [illegible] tracto 7. cap. 3. [illegible] =

Salmant. [illegible] 5. et 9

n.º 6.

Carnificio, et defensionis [illegible] homicidij [illegible] irregularitas [illegible] =

[illegible] Voluntarium [illegible] homicidij Voluntarij, [illegible] irregularitatem [illegible] ex [illegible] [illegible] ordinis [illegible] [illegible] irregularitatem [illegible] irregularitas [illegible] sit in [illegible] gradus, et actionis, [illegible] Constituitur, et [illegible] quod irregularitas in hac Consideratione generali dicitur [illegible] Vetari, [illegible] ex speciali [illegible] ad significandum specialem quandam inhabilitatem [illegible] fideles excluditur ne ad Clericatum [illegible] extra [illegible] fieri. [illegible] ita, irregularitas est inhabilitas, [illegible] Canonice [illegible] accepti ordinis clericalis, [illegible] inhabilitas, [illegible] inhabilitas et irregularitas, [illegible] [illegible] ad [illegible] Sacros [illegible] [illegible] [illegible] [illegible] ut [illegible] dist. 4. [illegible] =

ut docent [illegible] de irregularitate [illegible] et [illegible] tracto [illegible] 1. 9. [illegible]

n.º 7.

[illegible] quod irregularitas [illegible]

[illegible] dist. 44. [illegible] 3, [illegible]

[illegible] qui defectu [illegible] patiuntur, vel qui [illegible] carent membris necessariis ad exer[citium] sacrorum ordinum, vel de altero [illegible] quadam [illegible], et ideo irregulares [illegible] [illegible] irregularit[as] [illegible] loquendo sine culpa, quia de se [illegible] peccata, nec mortalia, nec venialia quidem [illegible] peccata [illegible] [illegible] irregularitatis, [illegible] [illegible] [illegible] nec [illegible], nec [illegible], et [illegible] quia [illegible] peccata tam mortalia quam venialia [illegible] [illegible] confessione, attamen irregularitas [illegible] tollitur ut [illegible]. Similiter [illegible] [illegible]; siquidem [illegible] introducta [illegible] culpam, tamen [illegible], [illegible] [illegible] [illegible] [illegible], atque irregularitas, [illegible] defectus [illegible] [illegible] [illegible], [illegible] defectus [illegible] culpa, qualiter [illegible] reducuntur [illegible] [illegible] quatenus [illegible] [illegible], peccata venialia [illegible] irregularitatis, [illegible] culpa, [illegible] ut tradunt [illegible] [illegible].=

n.o 8.

Excommunicatio [illegible] [illegible]

Denique [illegible] [illegible] [illegible] directe ac primario [illegible] receptionis ordinis clericalis, et [illegible] [illegible]; ad [illegible] censura [illegible] [illegible] [illegible] censura [illegible], [illegible] privat aliquo actu, vel [illegible] clericalis, [illegible] directe ac primario [illegible] receptionis ordinis, quia excommunicatio privat [illegible] fidelium, interdictum ab auditione divinorum officiorum [illegible] sacris, [illegible] [illegible] irregularitas. = Verum hoc difficile reddi videtur [illegible] [illegible] [illegible] sacros ordines recipere, deposit[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] hominem incapacem ad receptionem et [illegible] sacrorum ordinum, [illegible] [illegible] [illegible] [illegible] clerico excommunicato interdicto ministrare, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] excommunicationis, [illegible] et depositionis. = Facile [illegible] difficultas dissol[vitur] si dicamus illa [illegible] directe ac primario intelligi [illegible] ordinis [illegible], [illegible] [illegible] receptionis ordinis, atque excommunicatio [illegible] privat formaliter et directe a receptione [illegible] ordinis [illegible] [illegible] fidelibus, et [illegible] receptione sacramentorum, et [illegible] [illegible], [illegible] fidelium, ideo consequenter privat [illegible] receptione et usu sacramentorum. Suspensionis, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] ordinum. [illegible] [illegible] perpetrante, [illegible] [illegible] irregularitas [illegible] respectu ordinis [illegible] [illegible], ut tradunt [illegible] in [illegible] c. 27. n.o 92. et [illegible] [illegible] n.o 11. cum sequentibus. =

n.o 9.

excommunicatio [illegible] irregularitatis [illegible] [illegible].=

Hinc [illegible] [illegible] irregularitas ex [illegible] [illegible] [illegible] [illegible], [illegible] [illegible] [illegible], [illegible] [illegible] [illegible] irregularitatis [illegible] [illegible] evangelicam [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] judicialia [illegible] [illegible] moralia [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] d. 2. q. 104. art. 3. [illegible] [illegible] [illegible] [illegible] [illegible], et [illegible] [illegible] [illegible], [illegible], [illegible] [illegible] [illegible]. [illegible], [illegible] [illegible] [illegible] et [illegible] [illegible] [illegible] [illegible] [illegible] Apostoli, [illegible] [illegible] [illegible] [illegible] ad Corinthios [illegible], [illegible] [illegible] [illegible]. Nec sufficit ad inducendam irregularitatem [illegible] particularis [illegible] [illegible] [illegible] [illegible] nationalis [illegible] [illegible], [illegible] [illegible] [illegible] [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] approbatis a [illegible] [illegible] [illegible] [illegible] [illegible] habet auctoritatem [illegible], [illegible] [illegible] errare, ut [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] nullam irregularitatem nisi sit in [illegible] [illegible] [illegible] irregularitas [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible], [illegible] [illegible].=

n. 10.

Nec obstat [illegible] ad hanc irregularitatem [illegible] in sub[illegible] [illegible] Leone [illegible] in minori positum [illegible], nec posse dari aliquam [illegible] [illegible] [illegible], [illegible] [illegible] [illegible] capitulo qui de cler. excommunicato [illegible] [illegible] [illegible] [illegible] restringendus [illegible], [illegible] licet qui celebrat in loco interdicto fiat irregularis, [illegible] [illegible] [illegible] [illegible] [illegible] irregularis [illegible], quamvis [illegible] [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] active [illegible] passive nullo modo fit irregularis, quamvis irregularitatem incurrat [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] irregularitatem [illegible] Sacris Ordinibus, nec ille qui [illegible] [illegible] [illegible] Sacris, aut [illegible] [illegible] [illegible], aut [illegible], quamvis [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Violat [illegible] Voluntarie [illegible] [illegible] [illegible] irregularitatem, quamvis [illegible] [illegible] [illegible] [illegible] [illegible] gravem peccatum. [illegible] [illegible] Celebrare [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] prope Urbem [illegible] =

n. 11.

Hinc sequitur [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] irregularitatem [illegible] irregularitate [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] =

n. 12.

Igitur [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] irregularitatem, [illegible] [illegible] [illegible] [illegible] irregularitatem [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] irregularitatem [illegible]

[illegible marginal notes]

Nec contra facit fundam. [illegible] sententiae oppositae [illegible]; Non est decisio [illegible] cap. ad audientiam [illegible] cap. Significasti [illegible], quoniam [illegible] in Theologia de dubio [illegible] facti, in quo [illegible] Nec [illegible] quamvis [illegible] quod unusquisque tenetur [illegible] periculo peccandi, [illegible] quod [illegible] in dubio, [illegible] quia [illegible] quod favorabilius [illegible], quatenus [illegible] cap. [illegible] Hostiensis, [illegible] cap. ad audientiam, [illegible] Navarrus in manuali [illegible] cap. 27. n. 192 [illegible]. =

n.° 13.

Similiter [illegible] dubio facti [illegible] irregularitas [illegible] [illegible] dubio [illegible] lege. [illegible] in Confess. dubio [illegible] quoad factum [illegible], [illegible] lege. [illegible] cap. [illegible] [illegible] quatenus [illegible] absolvere [illegible] [illegible], quod [illegible] a delicto [illegible] probabiles [illegible] sufficientes [illegible] ad absolvendum [illegible] dubio, [illegible] si altera pars [illegible] dubia, [illegible] probabilis relinquitur, [illegible] absolvendus [illegible] in [illegible] dubio facti irregularitas [illegible] probatur [illegible] quoniam irregularitas [illegible] sit [illegible], illa [illegible] sed in dubio facti [illegible] absolutus [illegible] ab irregularitate. = [illegible] de aliquo Voto dubitans [illegible] fecerit, [illegible] ad [illegible] Voti, [illegible] [illegible] facti [illegible] dubium [illegible] irregularitate [illegible] dubio [illegible] aliquem [illegible] tenetur [illegible] [illegible] = [illegible] quod operatur aliquid [illegible] dubium [illegible] incurrere suspensionem, [illegible] [illegible] beneficii, [illegible] absolvere [illegible] [illegible] absolvatur, [illegible] dubio facti irregularitatem [illegible] in dubio [illegible] [illegible] Alb. [illegible] n.° 5. =

n.° 14.

Verum [illegible] doctrina [illegible] difficultas [illegible] ex eo, quoniam unusquisque tenetur [illegible] culpa et peccato, et [illegible] periculo, [illegible] irregularitatis [illegible] cap. quemadmodum [illegible] [illegible] = Facile [illegible] absolvitur, [illegible] Doctores [illegible] [illegible] procedere [illegible] dubium [illegible] [illegible] in praxi [illegible] causatur, [illegible] [illegible] dubitat [illegible] Voto, [illegible] [illegible] beneficio. [illegible] ut [illegible] [illegible] docet [illegible] n.° 27. = 2.° difficultas [illegible] cap. ad audientiam, [illegible] dubio [illegible] irregularitate [illegible] Ordinis [illegible] quod [illegible]. = [illegible] difficultatis [illegible] Navarrus [illegible] ad audientiam [illegible] [illegible] quod [illegible] procedere [illegible] [illegible] Cardin. [illegible] [illegible] n.° 5. =

n.° 15.

Hinc [illegible] irregularitatem [illegible] ad irregularitatem [illegible] cap. [illegible] cap. [illegible] 34 [illegible] de [illegible] irregularitas [illegible], ordinis [illegible]

[illegible] facere [illegible] sicut [illegible], si [illegible] ad hujus validitatem est necessaria [illegible] materia, et forma, et
intentio ministri, ut [illegible] suspenso, et deposito. = [illegible]
[illegible] facit [illegible] ex Trid. [illegible] sess. 24. c. [illegible]
[illegible] voluntas [illegible]
necessarium sit ad validitatem [illegible]. = [illegible]
facit [illegible]
[illegible] celebrans, et hoc procedit [illegible]
irregularitatem [illegible]
[illegible] sacros ordines [illegible]
[illegible] peccat mortaliter [illegible]
[illegible] ministrare [illegible] peccato mortali [illegible]
[illegible] ut docent [illegible] n. 4. =

n.o 16. Verum licet superius irregularitatem [illegible]

[illegible]

n.o 17. [illegible] irregularitatis [illegible]

[illegible]

De [illegible] irregularitate [illegible]

De [illegible] irregularitate [illegible]

que excusat a culpa, necessario excusat a pœna, ad hoc ergo ut poenam reducatur, ita docent [illegible] 7. [illegible] q. 4. Medina in summa tractatu de [illegible] [illegible], Soto, [illegible] et alii plures, [illegible] [illegible] de [illegible] [illegible] 16 [illegible]. =

n.° 48.

Similiter ex [illegible] venit quod sit [illegible] casus irregularitatis [illegible] dicimus incapaces irregulares, qui [illegible] recipiendi sacros ordines, ut constat ex cap. [illegible] de [illegible] baptizato. quod dupliciter potest intelligi. 1.° ut talis incapacitas proveniat ex voluntate illius, quia voluntarie baptismum recipere, [illegible] extra [illegible], et ita [illegible] homo [illegible] baptizatus incapax est talis irregularitatis, [illegible] ut talis incapacitas proveniat ex [illegible], et hoc modo [illegible] incapaces [illegible] inhabiles recipere sacros ordines, quod [illegible] ex facto Christi [illegible], qui tamen ordinavit Apostolos in nocte [illegible], et [illegible] [illegible] [illegible], ubi dicitur [illegible] claves [illegible] [illegible] dedisse, [illegible] Apostolis [illegible] [illegible], [illegible] qui baptizati [illegible], et habent superiorem sunt capaces irregularitatis [illegible] [illegible] quia [illegible] [illegible] excommunicationis [illegible], quia sicut [illegible] [illegible] clausulis [illegible] [illegible] excommunicationis, ut constat ex cap. [illegible] [illegible] excommunicatos [illegible] [illegible] capacitate irregularitatis [illegible] [illegible] [illegible], [illegible] [illegible], [illegible] [illegible] irregularitas [illegible] irregularis ex [illegible] cap. 1.° de [illegible] [illegible] [illegible] ex [illegible] [illegible] [illegible] [illegible] virum [illegible], [illegible] irregularis [illegible], et debet [illegible] [illegible] ordinis. [illegible] [illegible] [illegible] ante [illegible] [illegible] electionem, [illegible] [illegible] [illegible], aut [illegible] [illegible] occultus, [illegible], debet repelli ab electione, [illegible] [illegible] [illegible] occultus, electio erit valida [illegible] irregularis [illegible] cap. [illegible] [illegible] [illegible] [illegible] de electione [illegible] [illegible] 2.° [illegible] 4. [illegible]. = [illegible] [illegible] n.° 20. n.° 24. [illegible] =

n.° 49.

[illegible] [illegible] [illegible] irregularitates, [illegible] supponimus [illegible] [illegible] irregularitatis, sed tamen [illegible] [illegible] quo [illegible] talis irregularitas [illegible] ut [illegible] ex Concilio [illegible] cap. [illegible] abstinere [illegible], [illegible] [illegible] cessare debet, [illegible] [illegible] [illegible] [illegible] de [illegible] dicitur, [illegible] Ordines, [illegible] cap. 2.° [illegible] [illegible] [illegible] [illegible] [illegible] sacerdotio [illegible], [illegible] [illegible] [illegible] irregularitas [illegible], [illegible] [illegible], [illegible] [illegible] [illegible], [illegible] [illegible] [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] [illegible], [illegible] [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible], [illegible] irregularis [illegible] [illegible] sacerdotio, [illegible] exercere ordines, [illegible] [illegible], [illegible] [illegible] [illegible] [illegible]. quid [illegible] sit dicendum [illegible] [illegible] [illegible] [illegible] irregularis [illegible], [illegible] [illegible] [illegible] ordinem [illegible] [illegible] [illegible] cap. [illegible] de Ordinibus [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] irregularis [illegible] [illegible] [illegible] [illegible] [illegible]. [illegible] [illegible] [illegible], [illegible] [illegible] [illegible] [illegible] [illegible], [illegible] [illegible] cap. 5. 46. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] n.° 5.° =

n.° 50.

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] irregularitatis [illegible] [illegible] [illegible] [illegible] irregularitas [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] irregularitatis [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] ex delicto, [illegible] [illegible] [illegible] [illegible] [illegible] ex defectu [illegible], ex defectu [illegible], ex defectu [illegible], ex [illegible] [illegible] delicto, ut docet [illegible] n.° 29. = [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible]

irregularem membra dividit. 1º per [illegible] 2º [illegible] 3º ex infamia; 4º ex [illegible] 5º ex defectu [illegible] 6º [illegible] 7º [illegible] ex homicidio [illegible] [illegible] Coll. [illegible] Clem. [illegible] cap. [illegible] [illegible] irregularitate [illegible] = [illegible] irregularitatem, v. per homicidio [illegible] culpa et voluntas [illegible] irregularem [illegible] homicidio voluntario, volunt [illegible]. dist. volunt. =

n. 11. [illegible] voluntas [illegible]

[illegible] homicidii voluntarii, quia [illegible] homicidio voluntario [illegible] irregularitatem [illegible] cap. 7. [illegible] [illegible] voluntarium [illegible] irregularitatem [illegible] =

n. 22. [illegible] homicidii voluntarii [illegible]

[illegible] voluntarie [illegible] irregularitatem [illegible] =

[illegible] homicidio [illegible] irregularitatem [illegible] =

n.º 23

Si proveniat homicidium irregularitas proveniens ex homicidio voluntario [illegible] habere [illegible] irregularitatem [illegible] sive [illegible] alia [illegible] vel quamlibet [illegible] sive [illegible] aut [illegible] [illegible] homicidio [illegible] [illegible] irregularitatem [illegible] obtineat. Nec [illegible] [illegible] [illegible] irregularitatem [illegible] cap. [illegible] 10. [illegible] Colligitur ex [illegible] [illegible] cap. [illegible] cap. [illegible] 36. [illegible] irregularitatem [illegible] [illegible] [illegible] [illegible] irregularitatem [illegible] [illegible] [illegible] [illegible] de [illegible] [illegible] [illegible] [illegible] irregularitatem [illegible] cap. 4. [illegible] n.º 2. [illegible]

n.º 24.

Hinc doctores [illegible] vel [illegible] homicidium voluntarium [illegible] [illegible] homo [illegible] sive [illegible] sive [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] tor, malefactor, excommunicatus, aut [illegible] [illegible] [illegible] [illegible] cap. 4. [illegible] n.º 2. [illegible] cap. 4. [illegible] n.º 2. [illegible] 44. [illegible] Nec [illegible] facit [illegible] cap. excommunicatus 47. [illegible] [illegible] [illegible] [illegible] [illegible] irregularitatem [illegible] [illegible] [illegible] homicidium est hominem occidere, [illegible] [illegible] Vel [illegible] [illegible] [illegible] [illegible] [illegible] homicidium [illegible] appellandum [illegible] cap. excommunicatus [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] bello [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] cap. [illegible] 24.

n.º 25

[illegible] [illegible] [illegible] [illegible] in bello [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 40. [illegible] [illegible] 43. [illegible] [illegible] Sed [illegible] quando irregularitas [illegible] [illegible] [illegible]

[illegible] in bello [illegible] militares [illegible] irregulares [illegible] belli [illegible]
[illegible]. Cum decisio extenditur ad eos qui [illegible] vel [illegible] occisi [illegible]
[illegible] Coll. [illegible] §. 3. n.º 2. [illegible]
ad belli irregularitatem [illegible], sive [illegible]
[illegible] de Voto. [illegible] bellum [illegible] Rege [illegible]
[illegible]
[illegible] = [illegible]
[illegible]
[illegible] in bello [illegible]
[illegible]
[illegible]
[illegible] 3. [illegible] 1760 [illegible] =

n.º 26. Sed adversus hanc doctrinam [illegible] n.º 24. [illegible]

[illegible] militares [illegible]
[illegible]
[illegible] belli [illegible] = [illegible]
[illegible] in bello [illegible]
[illegible] fideles [illegible]
[illegible] Torrecremata [illegible] 10. [illegible] 47. de Cons. [illegible]
n.º 6. [illegible]
[illegible] bello [illegible] fideles [illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]

n.º 27. [illegible] bello [illegible]
[illegible] 36. [illegible] belli [illegible]
[illegible]
[illegible]
[illegible]
[illegible] in bello [illegible]
[illegible]
[illegible]
[illegible]
[illegible]

Margin notes: [illegible] n.º 4. [illegible] — [illegible] 28. [illegible]

[illegible] ... Ordinibus [illegible] ... [illegible]

n.° 28

Quicunque [illegible] homicidij voluntarij [illegible] ... [illegible] publice, sive occulte [illegible], vel quocunque [illegible] ... [illegible] cap. 7. [illegible] ... Ordinibus, irregularitates, aut [illegible] ... Occultum [illegible] ... 34. [illegible] ... 4. [illegible] Ordinis [illegible] ... irregularitas [illegible] ... [illegible]

[illegible] homicidio [illegible]

n.° 29.

[illegible] homicidio voluntario [illegible] ... [illegible] irregularitas [illegible] ... Ordinibus [illegible] ... Ordinis [illegible] ... 40 [illegible] 50 [illegible] ... homicidij [illegible] ... [illegible]

[illegible] homicidio [illegible]

[illegible] homicidio [illegible] ... [illegible]

n° 30.

[illegible] hac doctrina [illegible] [illegible] [illegible] difficultas [illegible] [illegible] ad [illegible] destate, et qualit. [illegible] proposita [illegible] [illegible] [illegible] [illegible] medicina [illegible], licet mortis periculum [illegible] [illegible]; Respondit [illegible] [illegible] [illegible] [illegible] [illegible] Clericus [illegible] [illegible] [illegible] [illegible] [illegible] irregularitatem [illegible]. = Haec difficultas facile dissolvitur, si dicamus [illegible] [illegible] medico laico, [illegible] Clerico, non [illegible] semper prohibitum est artem medicam exercere cap. 11, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] irregularitatem [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] medicamenta [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] medicamentum [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] cap. [illegible] 24. [illegible] [illegible] [illegible] [illegible] [illegible] 4. [illegible] = [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 54. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] irregularis [illegible] [illegible] [illegible] [illegible] 7. cap. [illegible] [illegible] [illegible] Cobb. [illegible] [illegible] 10 [illegible] [illegible] =

n° 31.

[illegible] [illegible] [illegible] [illegible] irregularitatem [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 22. [illegible] [illegible] [illegible] [illegible] irregularitate [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] irregularitate [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 22. [illegible] 7. [illegible] = [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] irregularis [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 10. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Palud. [illegible] 4 [illegible] =

n° 32

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Cobb. [illegible] 47. [illegible] [illegible] 45. [illegible] 4. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] irregularitatem [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible]

[illegible] [illegible] [illegible]

[illegible] publica [illegible] sed laudabilibus [illegible] 23 [illegible]

44. 23 et 4. [illegible]

[illegible] Tamponium [illegible]

[illegible] = [illegible]

n.° 33

Irregularitas [illegible] — Ex [illegible] [illegible]

[illegible] Valentiam [illegible] singulares [illegible] Vel [illegible] Vel [illegible] Vel [illegible] singularis [illegible] Castrens [illegible] Ulterius [illegible] Capitulares [illegible] Valencia [illegible]

n.° 34

[illegible] — [illegible] ut [illegible] Vel [illegible] Vel [illegible] Vel [illegible] [illegible] Villalobos [illegible] [illegible]

[illegible]

n. 35

[illegible]

n. 36

[illegible]

n. 37

[illegible]

[illegible] ... 45. § [illegible] ... lib. 5. de [illegible] ... cap. 9. n.º 32 ... 51. n.º 4. ... n.º 6 ... lib. 3. sect. 5. ... 7. cap. 3. ... n.º 332. et 347. ... 22. ... n.º 3. [illegible]

n.º 38. [illegible]

[illegible] ... 4.º Conditio [illegible] ... 5.º et ult. Conditio [illegible] ... [illegible] =

n.º 39. [illegible]

[illegible] ... 9. [illegible] ... n.º 76. ... [illegible] =

[illegible] ... m. 40. [illegible]

Dehinc [illegible] ... Petro [illegible] ... gladium, [illegible] ... [illegible]

[illegible]

[illegible]

[illegible] ad Examen [illegible]

[illegible] de Homicidio

Nomine [illegible] ... [illegible]

[illegible]

n.° 2.

Ac [illegible] quae [illegible] deducuntur, [illegible] [illegible] ... [illegible] ecclesiastica [illegible] pendet, [illegible] ... lib. 6. cap. [illegible] ... lib. 10. [illegible] de [illegible] ... cap. [illegible] 19. cap. [illegible] 32 [illegible] 17. [illegible] 4. [illegible] 7. [illegible] cap. de [illegible] 36 [illegible] cap. [illegible] 27. [illegible] ... [illegible] 4. [illegible] ... [illegible] l. 1. C. [illegible] ... [illegible] ... l. 6. [illegible] ... l. 13. [illegible] ... [illegible] ... [illegible] lib. 2. [illegible] ... lib. 5. [illegible] ... lib. 2. cap. 5. [illegible] ... cap. 10. et 12. [illegible] ... 9. 28. 29. 30. ... lib. 2. cap. [illegible] ... [illegible]

n.° 3.

[illegible] ... [illegible] 7. [illegible] ... cap. 34 [illegible] ... [illegible] 17. [illegible] 4. [illegible] ...

n.° 4.

[illegible] ... [illegible] 4. [illegible] ... [illegible] =

[illegible]

26

[illegible]

Contrarium

[illegible]

27

[illegible]

[illegible] Canonicis [illegible] ... [illegible] 4 [illegible] ... [illegible]

n. 8.

[illegible] ... Missa celebrata [illegible] ... [illegible]

[illegible] ... celebratur [illegible] ... [illegible]

[illegible] ... ubi [illegible] ... religiosis [illegible]

[illegible] ... nullo [illegible] ... extendatur [illegible]

[illegible] ... peccat [illegible] ... [illegible]

[illegible] ... divina [illegible] ... mysteria [illegible] ... dicata [illegible]

[illegible] ... in ordine ad [illegible] fidelium, ad illorum terrorem [illegible]

reverentiam [illegible] ... [illegible]

[illegible] ... n. 4 [illegible]

n. 9.

[illegible] ... [illegible]

[illegible] ... [illegible] ... n. 16 [illegible]

[illegible] ... [illegible]

[illegible] ... fidelium [illegible] ... [illegible]

[illegible] ... n. 4 [illegible] ... 108 [illegible]

[illegible] ... [illegible]

[illegible] ... [illegible]

[illegible] ... templo [illegible]

[illegible] ... [illegible]

n. 10.

[illegible] ... [illegible]

[illegible] ... [illegible]

[illegible] ... [illegible]

[illegible] attendendum est [illegible] Palatij [illegible] privilegijs [illegible] 17. q. 4. et docent [illegible] et [illegible] resolut. 4. [illegible] ad quadraginta passus [illegible] Chocadilla [illegible] = similiter [illegible] Cathedralis [illegible] Romana [illegible] publico, [illegible] privilegijs [illegible] c. 3. n. 72. = [illegible] parochiales [illegible] parochis, [illegible] Capituli [illegible] secularis [illegible] =

n. 11.

[illegible] monasteria, seu domus religiosorum, [illegible] loca sacra [illegible] Bulla Gregorij 14. [illegible] domibus, locisque sacris aut religiosis. [illegible] secularis [illegible] religiosorum [illegible] =

n. 12.

[illegible] Cathedralis, seu [illegible] quadraginta passus [illegible] 17. q. 4. [illegible] Clericorum [illegible]

[illegible] 16. § 4 n. 6. Farinacius in prax. Criminali q. 28. n. 42 et de [illegible] n. 28 [illegible] 94 [illegible]
[illegible] Barbosa 1. [illegible] n. 87 [illegible]
[illegible]
n. 13.

Deinde [illegible] Clericis [illegible] paudeant [illegible]
[illegible] Sive sint liberi, sive servi, [illegible] 12 [illegible]
[illegible]
[illegible]
[illegible]
[illegible] primo [illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible] fidei [illegible]
[illegible] anno 1631 [illegible]
[illegible] Barbosa [illegible] n. 44 [illegible] =

n. 14.

[illegible]
[illegible] 14 [illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible]
[illegible] n. 5 [illegible] n. 4 =

n. 15.

[illegible] sive [illegible]
[illegible]
[illegible]
[illegible]

[Marginal notes:]
[illegible]
+
[illegible] n. 44 [illegible]

[illegible]

[illegible]

[illegible] = Facile [illegible] difficultas dissolui [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] de Villa [illegible] sed veram voluntatem [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] sicut [illegible] n. 12. =

n.º 16. [illegible]

n.º 17 [illegible]

[Margin notes: [illegible]]

[illegible] gaudere potuit, [illegible] aliud [illegible] nec, sed de illius [illegible] Cum [illegible] gaudet [illegible] =

n.° 48.

Subsequitur alia [illegible] difficultas, [illegible] exponenda, Verum [illegible] regulariter [illegible] gaudeant [illegible] [illegible] Barbosa [illegible] [illegible] Covarr. [illegible] [illegible]

[illegible] Farinac. [illegible] Clarus [illegible] [illegible]

[illegible] =

n.° 49.

Denique exponendum superest [illegible] [illegible] =

n.° 50.

Hinc deprehendunt [illegible] [illegible]

Margin notes: [illegible]

nisi debitoribus [illegible] [illegible] secum deferret, vel [illegible] quippe [illegible] possit [illegible] [illegible] ecclesiastic[is], et [illegible] raptus, qui si secum deferret [illegible] ecclesia, subtrahendus est, licet ipse non sit per [illegible] extra [illegible] cap. de raptoribus 36. q. 1. ut [illegible] docet Coll. [illegible] ubi [illegible] confugientes ad ecclesiam [illegible] prohibitus [illegible] [illegible] spoliari; quoniam [illegible] ecclesiam [illegible] [illegible], et [illegible] sit [illegible] ipsa ecclesia [illegible]. = 47. [illegible] [illegible] [illegible] [illegible] ecclesia [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] deferantur, [illegible] [illegible] ecclesia [illegible] [illegible] ecclesia [illegible] [illegible] [illegible] vel [illegible] ecclesia [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] ad mortem, vel [illegible] [illegible] cap. [illegible] de immunitate ecclesiae, [illegible] [illegible] [illegible] [illegible] [illegible]. =

n. 21. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] ecclesia [illegible]; [illegible] [illegible] delictis [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] cap. [illegible] 17. 4. [illegible] ecclesia [illegible] [illegible] [illegible] [illegible] in [illegible] in [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] modo. [illegible] cap. [illegible] 17. 4. = [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] ecclesia [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] cap. [illegible] [illegible] 17. 4. [illegible] [illegible] [illegible] [illegible] 2. [illegible] 99. art. 4. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 3. cap. 18. [illegible]

n. 22. [illegible] cap. 3. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] = [illegible]. = [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]. =

[illegible] [illegible] [illegible] [illegible]

n.º 23. [illegible] ita animadvertis [illegible] venit [illegible]

ideo q.º [illegible] statuitur [illegible] homicidij per industriam [illegible] ab altari avellendus, et [illegible] ecclesia extrahi posse, et ex hujusmodi [illegible] puniri, quoniam tale crimen [illegible] valde grave [illegible] est [illegible] Quilibet [illegible] permitterent [illegible] eo modo quo [illegible] Sacri Canones [illegible] Leges [illegible] [illegible] cap. [illegible] de homicidiis, cap. [illegible] 23. [illegible] 5. [illegible]

Liceat [illegible] [illegible] publicus latro [illegible] quibus [illegible] [illegible] [illegible] capit. [illegible] tribunal [illegible] auctoritatis [illegible] [illegible] [illegible] pertinuerit [illegible] veteris legis [illegible] cap. [illegible] [illegible] cap. [illegible] [illegible] [illegible] immunitatis [illegible] homicidij [illegible] per industriam [illegible] [illegible] [illegible] Ioannes [illegible] Canon. [illegible] 9. [illegible] 7. [illegible]

n.º 24. [illegible]

[illegible] delinquentis [illegible] homicidij [illegible] per industriam [illegible] [illegible] delicti gravissimum [illegible] [illegible] [illegible] misericordia [illegible] [illegible] Facilitas veniae [illegible] delinquendi, ut docet D. Ambrosius in cap. [illegible] 33. [illegible] 36. [illegible] homicidij per industriam [illegible] ecclesia [illegible] [illegible] [illegible] 27. [illegible] = [illegible]

[illegible] ecclesiae [illegible] delicti [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] homicidij [illegible] [illegible] [illegible] Canonici [illegible]

n.º 25.

[illegible] obstat [illegible] [illegible] immunitate ecclesiae, [illegible] [illegible] immunitati [illegible] Concessa [illegible] [illegible] publicus latro, [illegible] [illegible] per industriam et insidias [illegible] [illegible] [illegible] [illegible] Apostolicae [illegible] [illegible] [illegible] cap. [illegible] [illegible] [illegible] immunitatis [illegible] [illegible] [illegible] [illegible] ecclesiasticae [illegible] [illegible] Canonici [illegible] delicti [illegible] [illegible] [illegible] [illegible] [illegible] cap. 11. n.º 11. [illegible] = [illegible]

[illegible] de except. [illegible] homicidium [illegible]

[illegible]

Veteris

[illegible]

465

excepto [illegible] [illegible] [illegible] ad [illegible] [illegible] illius immunitate gaudere, a quo [illegible] [illegible] delinquendi [illegible] [illegible], quae semper [illegible] [illegible] [illegible] ecclesiastica immunitate [illegible] [illegible] [illegible] [illegible] [illegible] cap. [illegible] [illegible] [illegible] [illegible] [illegible] cap. [illegible] [illegible] [illegible] ad [illegible] [illegible] [illegible] delicta [illegible] [illegible] nec [illegible] delinquendi [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] cap. [illegible] [illegible] ecclesia [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] tradit [illegible] [illegible] [illegible] tom. 4. =

n.º 26.

Denique [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] homicidiis [illegible] [illegible] [illegible] ecclesiasticae immunitatis [illegible] [illegible] [illegible] ad illius [illegible] [illegible] [illegible] delicti [illegible] [illegible] [illegible] delicta [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] adulterij [illegible] [illegible] delicta [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] cap. 14. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Sermonis [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] de adulterio, nec de alijs [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] immunitate ecclesiastica [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] adulterij [illegible] [illegible] [illegible] [illegible] 16. 82. 97. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] delicta [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Barbosa [illegible] [illegible] de [illegible] cap. 3. n.º 120. [illegible] =

n.º 27.

Ex his [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] ad difficile [illegible] Innocentij 4 decretum [illegible] cap. 1. [illegible] [illegible] [illegible] tit. 6. [illegible] ecclesiastica [illegible] gaudeat [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] homicidij [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] homicid[illegible] 47 [illegible] Francorum tit. 5 cap. 7. [illegible] = [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] ad [illegible] [illegible] [illegible] gaudeat [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Barbosa [illegible] [illegible] [illegible] =

n.º 28

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] ad [illegible] [illegible] gaudeat immunitate, quoniam [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] cap. 1. [illegible] tit. 6. [illegible]

ad utrumque laicos et saeculares [illegible] quoad temporalis jurisdictionis [illegible]

[illegible] tamquam quod [illegible] sit accommodatior, enorme et [illegible] religioni [illegible]

[illegible] saeculares [illegible] de [illegible] et Obedientia, cap. [illegible]

cap. [illegible] qui [illegible] [illegible] decimis [illegible]

[illegible] siquidem [illegible] dependet [illegible]

[illegible] cap. [illegible] [illegible]

[illegible] mandante [illegible] authoritate [illegible]

[illegible] [illegible] pandere

[illegible] [illegible] 14. [illegible]

[illegible] [illegible] aut qui [illegible]

[illegible] occiderunt, aut [illegible] ut [illegible]

[illegible] pandet [illegible] [illegible] pandet [illegible]

[illegible] n. 97. [illegible] =

n. 29. Secundo ex [illegible] difficile [illegible]

[illegible] cap. 4. [illegible] de raptoribus [illegible] 36. [illegible] de raptoribus [illegible]

[illegible] raptores [illegible] perdelictis [illegible]

[illegible] [illegible] aut [illegible]

Liberam habeat facultatem [illegible] raptores [illegible]

pandere, nec [illegible] [illegible]

[illegible] raptores [illegible]

[illegible] raptores

[illegible]

[illegible] raptoribus [illegible]

[illegible] raptores [illegible]

[illegible] pandeat [illegible] alij affirmant, alij [illegible] ut [illegible]

Barbosa [illegible] 3. n. 220. [illegible] raptorem [illegible]

[illegible] de [illegible] nec [illegible] delinquentes [illegible]

[illegible] Canonicae [illegible]

de raptoribus [illegible] 36. [illegible] Canonicae [illegible]

[illegible] cap. [illegible] [illegible]

[illegible] Canonicae [illegible] cap. n. 17. =

n. 30. [illegible] probabilius [illegible]

ad [illegible] cap. de raptoribus, [illegible]

in Pontificiis, nec Universalis Concilij, [illegible] Concilij [illegible]

[illegible] [illegible] obligat. [illegible]

[illegible] raptorem [illegible]

[illegible] raptorem [illegible] cap. [illegible]

[illegible] raptores [illegible]

[illegible] 66. art. 4. ad 7. [illegible] habeat [illegible]

[illegible] habet [illegible]

[illegible] [illegible]

[illegible] pandeat [illegible]

[illegible] [illegible] pandere [illegible]

[illegible] [illegible]

[illegible] [illegible]

Universalem dispositionem [illegible], et [illegible] excepti [illegible], in quibus [illegible] proponuntur, [illegible] quoad [illegible] excepti, nec licet extendere exceptionem [illegible] [illegible] adulterii [illegible] [illegible] [illegible] de vera [illegible] sacris [illegible] cap. 2. n. 17 per tot. =

n. 31.

S. exponendus venit duplex difficultas [illegible] [illegible] cap. [illegible] 17. q. 4 [illegible] ad [illegible] [illegible] [illegible] [illegible] [illegible] violatores [illegible], [illegible] [illegible], ex quibus [illegible] utrumque [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] ob [illegible] [illegible] delicti, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] absolute [illegible] pro [illegible] =

Ab hac difficultate [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] temporibus [illegible] [illegible] [illegible] [illegible] 2. [illegible] cap. [illegible] 8. cap. [illegible] aliis 17. q. 4 [illegible] arbitrio [illegible] = [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] cap. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] = [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] sacrilegium [illegible] [illegible], cap. [illegible] [illegible] 17. q. 4. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 4. [illegible] n. [illegible] =

n. 32.

Quo [illegible] [illegible] [illegible] cap. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 17. q. 4 [illegible] 24. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] cap. [illegible] 17. q. 4. [illegible] 1617. [illegible] [illegible] [illegible] [illegible] c. 49. n. 15. et [illegible] [illegible] [illegible] n. 4. =

n. 33.

[illegible] [illegible] [illegible] [illegible] [illegible] cap. [illegible] in cap. [illegible] 19. 17. q. 4. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

quaelecunque criminabilis [illegible], [illegible] ecclesiae [illegible] homicidij proditorium, deliberatum committens immunitatem [illegible] gaudere, ob laesionem [illegible], [illegible] Concilio Ilerdensi [illegible] illiusque prohibitionem = quae difficultas ut dissolvatur, [illegible] iudicum ecclesiasticorum competentia ad cognoscendum de immunitate ecclesiastica, ut constat ex cap. ultimo de immunitate ecclesiarum cap. ad aures 11. [illegible] 7. [illegible] 4. [illegible] competentia decidendi, an gaudeat reus in loco sacro, vel pro foro [illegible] sit, dum saecularis [illegible] [illegible] in loco profano, [illegible] loco sacro, ut [illegible] ex lata [illegible] 12. [illegible] canonicorum lib. 6. [illegible] Farinacius [illegible] [illegible] tract. de immunitate ecclesiastica num. 54. [illegible] regulariter in dubio satellitibus, et [illegible] capitur in loco sacro, [illegible] in foro ecclesiastico [illegible] proprius [illegible], vel absque [illegible] ullo [illegible], [illegible] aliquam [illegible] super [illegible] valeant, ut [illegible] [illegible] [illegible], aut curiae saeculari [illegible], aut tradi possint, nisi [illegible] prius [illegible], aut absque [illegible] [illegible] [illegible] [illegible] [illegible], [illegible] qualibet [illegible] immunitatis ecclesiasticae [illegible] [illegible] decretis, [illegible] [illegible] legibus decidi debere, ex doctrina [illegible] cap. [illegible] 47. [illegible] [illegible] Cobb. et Camb. [illegible]. =

n.° 34.

[illegible] Concilij Ilerdensis [illegible] auctoritatis [illegible] [illegible] est [illegible] propria auth. [illegible] ad [illegible] [illegible] absque [illegible], aut [illegible], quoniam licet [illegible] proprium habeat [illegible] potestatis [illegible] [illegible] [illegible] l. [illegible] C. de [illegible] [illegible] ad [illegible] [illegible] domini, aut [illegible], [illegible] [illegible] [illegible] ecclesiae [illegible] ut [illegible], [illegible] quod crimen [illegible] [illegible], ut [illegible] immunitate debeat [illegible], aut tradendum [illegible], debet [illegible] corporali, aut [illegible] minime [illegible]; nec bene [illegible], [illegible] Clerico [illegible], [illegible] [illegible] [illegible] ecclesiastico, [illegible] [illegible]. Nec ex loco [illegible] [illegible] [illegible] immunitatis [illegible] homicidij proditorium [illegible] [illegible] generalis [illegible] Concilij Ilerdensis ad aliud respicit, [illegible] ad excludendum [illegible] [illegible] [illegible] [illegible] debebat intelligi [illegible] [illegible] qui [illegible] delicta, ob quae gaudere debent [illegible] ad [illegible] [illegible] [illegible] delinquentes [illegible], qui ob [illegible] [illegible] [illegible] immunitate [illegible], ut [illegible] [illegible] [illegible] tradunt [illegible] tract. [illegible] lib. 6. cap. 26. num. 4. [illegible] opinionem, [illegible] num. [illegible] [illegible] 42. [illegible] plures [illegible] Barbosa [illegible] lib. 2 [illegible] cap. 3. n.° 139. [illegible]. =

n.° 35.

4.° ex [illegible] [illegible] ad [illegible] num. 17. [illegible] [illegible], [illegible] ad [illegible] [illegible], nec [illegible], vel ad [illegible] ut [illegible] [illegible] [illegible]; [illegible] [illegible] quamlibet [illegible] [illegible] gaudere debere immunitate [illegible] [illegible], [illegible] homicidij proditorium, committit [illegible] immunitate gaudent, et [illegible] [illegible] = [illegible] [illegible] dissolvitur, [illegible] generaliter intelligi [illegible], [illegible], [illegible] ordinarie [illegible], [illegible] extraordinarie, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible], [illegible] [illegible] [illegible] [illegible] de [illegible] [illegible] [illegible] [illegible] [illegible] 179. [illegible] 4. [illegible] de immunitate [illegible] [illegible] [illegible] considerata [illegible] [illegible] [illegible] [illegible] [illegible]

Latrones publicos, seu privatos, et qui transeuntes in viis publicis depraedantur et quicumque publica latro-
cinia, et rapinas exercent. Publicus autem latro dicitur aliquando [illegible], aliquando [illegible] [illegible], primo
modo [illegible] [illegible] [illegible] [illegible] [illegible], vel [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible],
[illegible] de Cohabitatione Clericorum et mulierum, [illegible] [illegible] [illegible] posterius [illegible] publicus latro appellatur; poste-
riori modo dicitur ille qui publice latrocinia exercet, vel [illegible] privato, vel publicas strates [illegible]
[illegible] [illegible] ad [illegible] [illegible] illius [illegible] [illegible], ut docent [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] 97. [illegible] [illegible] [illegible] [illegible]. =

n.º 36.

Quo et [illegible] viarum praedatores, qui si ad [illegible] [illegible] confugiant, illius [illegible]
[illegible] gaudent, [illegible] [illegible] cap. [illegible] [illegible] de [illegible] [illegible]. praedatores dicuntur illi, qui vias obsidet, ut [illegible]
depraedetur, [illegible] [illegible], et [illegible] occidat, [illegible] sufficit unica praedatio, ut hac [illegible] [illegible], cum
[illegible] [illegible] [illegible] Gregorii [illegible]. Constitutio, [illegible] [illegible] [illegible] duplex, et [illegible] [illegible] [illegible], [illegible] =
[illegible] [illegible] eadem [illegible] [illegible] nocturnos depopulatores agrorum [illegible] [illegible] cap. [illegible] de [illegible]
[illegible]. [illegible] nocturnos depopulatores agrorum, qui [illegible] agros [illegible] [illegible], [illegible]
[illegible], vel agros [illegible] [illegible] [illegible] nocturno [illegible]. [illegible] [illegible] nocturnos agrorum depopula-
tores publicos latrones [illegible] [illegible] depopulatores clandestine [illegible], et clandestine [illegible] [illegible] [illegible] qui
tale facit, latro publicus [illegible] publice [illegible]. [illegible] licet [illegible] [illegible] [illegible] agrorum depopu-
latores [illegible] [illegible] [illegible], [illegible] [illegible] [illegible] cap. [illegible] de [illegible] [illegible] loquatur de
nocturnis, [illegible] [illegible], [illegible] [illegible] Constitutionis Gregorii 14; [illegible] illud [illegible] nocturnos, ad [illegible] [illegible]
observatur [illegible] agrorum depopulatores, [illegible] [illegible] [illegible] [illegible] [illegible] delictis gravius [illegible]. [illegible]
ad [illegible] [illegible] [illegible] [illegible] [illegible] [illegible], [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] excludi, [illegible] [illegible] [illegible] [illegible] [illegible], ut [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] 4. [illegible] 4. n.º 45. Gregorius [illegible] [illegible] 4. [illegible] [illegible] [illegible], et [illegible]
[illegible] [illegible] [illegible] 1. Antonius [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] de [illegible] [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 159. [illegible]. =

n.º 37.

Quinto ex eadem [illegible] [illegible] [illegible] [illegible] [illegible] ad [illegible] [illegible] [illegible]
[illegible] [illegible], ex [illegible] [illegible] [illegible] [illegible] [illegible] [illegible], vel [illegible] [illegible] membrorum [illegible]
illius [illegible] gaudere, etsi ad [illegible] confugiant, [illegible] [illegible] gravitas delicti homicidii [illegible] [illegible] [illegible]
[illegible], [illegible] [illegible] ut [illegible] [illegible] [illegible], cum [illegible] [illegible] [illegible] quodlibet homicidium, aut [illegible]
[illegible] sufficerent [illegible] [illegible] [illegible] [illegible] [illegible] proponitur. = Ut ab hac difficultate liberemur, [illegible]
[illegible] [illegible] [illegible] [illegible] quodlibet gravius delictum [illegible] [illegible], [illegible] [illegible] [illegible] cap. [illegible] de [illegible]
[illegible], [illegible] [illegible] [illegible] [illegible] homicidio, aut [illegible] [illegible], et licet [illegible] [illegible], [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] gravia delicta [illegible] [illegible]: [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] [illegible] [illegible], [illegible] [illegible] [illegible] [illegible] [illegible] de [illegible]
[illegible] [illegible] [illegible] fit [illegible] [illegible]; = [illegible] ad [illegible] difficultatem respondemus [illegible] [illegible] [illegible]
[illegible] [illegible] [illegible] gaudere illius [illegible], quoniam [illegible] [illegible] valde indecens et detestabile est, ut [illegible]
Colligitur [illegible] cap. [illegible] [illegible] [illegible] [illegible] [illegible] debeat, [illegible] [illegible] [illegible] [illegible] [illegible], [illegible]
[illegible], [illegible] homicidii [illegible] [illegible] [illegible] valde gravi; [illegible] [illegible]
[illegible], vel aliud [illegible] delictum gravius detestabile [illegible], [illegible] [illegible] [illegible] [illegible]
[illegible] [illegible] ut [illegible] [illegible] [illegible], [illegible] [illegible] delinquens, [illegible] [illegible] [illegible] [illegible]
[illegible], [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible], [illegible] [illegible]
[illegible] [illegible] [illegible], [illegible] [illegible], [illegible] [illegible] [illegible] [illegible] [illegible]
[illegible] cap. 25. n.º [illegible] [illegible] [illegible] [illegible]. =

n.º 38.

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

1° [illegible] [illegible], quoniam leges puniantes delicta, non extendunt ad delicta [illegible], vel imperfecta, sed [illegible] ad consummata et perfecta, [illegible] leges poenales, [illegible] [illegible], et favores [illegible] ampliandi [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] aut [illegible]

[illegible] [illegible] [illegible] delictis [illegible] [illegible] = 2° [illegible] [illegible], quia [illegible]

est superiori doctrina, sequeretur [illegible] [illegible] [illegible], [illegible] rem furto sublatam [illegible]

[illegible], [illegible] occultando, [illegible] [illegible] peccare, [illegible] [illegible] [illegible], [illegible]

[illegible], ac [illegible] [illegible] [illegible] [illegible] [illegible] [illegible], [illegible] [illegible]

[illegible] videtur [illegible] resolutio. = At nihilominus tenenda est; nec obstat 1a difficultas, quoniam [illegible]

Contrarium [illegible] leges [illegible] delicta intelligi [illegible] [illegible] perfecta ~~[illegible]~~ procedere [illegible] [illegible] [illegible]

[illegible] [illegible], vel [illegible] [illegible], donec delictum [illegible] factum sit, [illegible] [illegible] [illegible]

[illegible], vel ad illud cooperantur, quoniam [illegible] [illegible] [illegible] [illegible] [illegible] = [illegible]

[illegible] 2a difficultas, quia licet [illegible] [illegible] [illegible], [illegible] [illegible] [illegible]

[illegible] sublatam [illegible] [illegible], ut [illegible] [illegible], [illegible]; [illegible] [illegible] [illegible]

furto simplici, [illegible] [illegible] [illegible] ad occultandam rem ablatam, [illegible] [illegible] delictis [illegible]

[illegible], quoniam [illegible] [illegible] dicti capitis ultimi [illegible] locum habet, [illegible] [illegible] [illegible]

[illegible] [illegible], vel [illegible], quoniam [illegible] [illegible] [illegible] [illegible], [illegible]

[illegible], [illegible] [illegible] [illegible] [illegible] [illegible] cap. [illegible] n. 80. =

n. 39.

Sexto et ultimo [illegible] Gravi [illegible] [illegible] [illegible]

ad [illegible] leg. 1. § [illegible] [illegible] 79. ff. ad leg. Cornel. de sicariis [illegible] [illegible] [illegible] [illegible]

si [illegible] animo [illegible], absolvi posse, [illegible] videtur [illegible] Marcianus [illegible] demonstrare [illegible]

[illegible] [illegible] [illegible] difficile, [illegible] [illegible] [illegible], et hoc [illegible], [illegible], [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible], [illegible] [illegible], [illegible] [illegible], [illegible]

[illegible] [illegible] [illegible]. = [illegible] difficultas [illegible] [illegible] delinquentis [illegible] solet [illegible]

[illegible], aut [illegible], [illegible] [illegible] habeat, [illegible], [illegible] [illegible]. [illegible]

[illegible] [illegible] [illegible] [illegible], [illegible] [illegible] [illegible] [illegible] [illegible]

ff. ad leg. Cornel. de sicariis. Alij [illegible] [illegible] [illegible], [illegible] [illegible], [illegible] [illegible]

[illegible] [illegible], [illegible] [illegible] [illegible] [illegible] [illegible]. [illegible]

[illegible] [illegible] specialiter [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] n. 60, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

n. [illegible].

Unde hoc [illegible] [illegible] [illegible] Marcianus [illegible] [illegible]

[illegible] ff. ad leg. Cornel. de sicariis, [illegible] animo [illegible] sufficit ad hoc ut dicatur [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible], [illegible] [illegible] intelligendus [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] intelligitur [illegible] [illegible] [illegible], [illegible] [illegible]

[illegible] [illegible], [illegible] [illegible] [illegible] regulariter [illegible] [illegible] [illegible]. [illegible]

[illegible] [illegible] regulariter examino, et voluntate [illegible] [illegible] absque effectu [illegible]; [illegible]

[illegible]. [illegible] [illegible] [illegible], [illegible] [illegible] [illegible] [illegible], [illegible] [illegible]

[illegible]. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible], [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible], ut [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible] cap. [illegible] n. [illegible]. [illegible] sufficiant [illegible] [illegible] [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

[illegible] [illegible]

[illegible]

Expositio ad Textum in cap. Interfecisti
[illegible] 2°, et in cap. Si perfodiens 3° hac nostra [illegible]
[illegible] de Homicidio.

n.1° Hec duo [illegible] ex [illegible] Romano, et ex [illegible] desumpta tanquam ad idem tendentia [illegible] unico Commentario [illegible] exponenda decrevimus; agitur [illegible] de homicidio commisso ob defensionem propriae personae, vel [illegible] in furem aut latronem, nec [illegible] dicerunt per noctem [illegible] aut [illegible] sequens [illegible]. Si enim [illegible] occidens latronem, cum se potuerit aliter defendere, o liberare [illegible], [illegible] per quadragesima dies [illegible] et alijs similibus rebus [illegible], quia talis homo, quamvis [illegible] ad Dei imaginem creatus est. Si vero aliter se liberare non [illegible], et homicidij [illegible] ad [illegible] peragendam [illegible] obstringatur, [illegible] quamvis [illegible] apud [illegible] Vixerit. Et si [illegible] dicta occisus fuerit fur [illegible], nec occisor homicidij [illegible] nec irregularitatem [illegible] Vel noctu [illegible] si [illegible] fuerit, id est, si fur [illegible] tarit [illegible], illum occidere, propter [illegible] homicidij [illegible] aut [illegible] Si [illegible] irregularis [illegible] accidetur, si se [illegible] defendens, [illegible] hoc [illegible] docetur =

n.2° Ex hoc Textu [illegible] deducitur [illegible] latronem occidens aliter se [illegible] liberare potuit, [illegible] debet, [illegible] si [illegible] liberari [illegible] potuit, [illegible] occidentem, [illegible] probat [illegible] Canonico [illegible] cap. Si [illegible] cap. [illegible] de [illegible] cap. [illegible] 3° cap. [illegible] de [illegible] cap. dilecto [illegible] [illegible] Clem. [illegible] Clem. [illegible] [illegible] leg. [illegible] leg. Scientia 45. § qui [illegible] [illegible] L. Si [illegible] ff. de [illegible] 12. § [illegible] ff. de [illegible] Si [illegible] C. de [illegible] [illegible] 4. L. [illegible] C. [illegible] [illegible] 3. [illegible] 7. [illegible] 4. [illegible] 43. [illegible] 8 Ordinamenti L. 1. [illegible] 17. [illegible] 4. [illegible] L. 4. [illegible] 15. [illegible] [illegible] Suarez [illegible] 5. de Censuris [illegible] 46. Sect. 2 n. 9. [illegible] 5. de [illegible] 8. Navarrus [illegible] cap. 15. n. 55. Cobb. [illegible] 3. [illegible] § unico n. 5. [illegible] de homicidio [illegible] 3. [illegible] cap. 3. n. 20. Petrus Gregorius [illegible] 3. [illegible] cap. [illegible] n. 20. n. 21. [illegible] Clarus in [illegible] Criminali § homicidium [illegible] 47. [illegible] 5. [illegible] cap. 26. [illegible] lib. [illegible] A. Baldus [illegible] 57. [illegible] 12 [illegible] 8. [illegible] 9. [illegible] 4. [illegible] 3. [illegible] 8. Ordinamenti [illegible] et alij [illegible] [illegible] Coll. 96. [illegible] [illegible] =

n.3. Verum quamvis [illegible] [illegible] [illegible] [illegible] quia [illegible] [illegible] homicidium [illegible] [illegible] [illegible] divina providentia [illegible] quia [illegible] humani [illegible]

[margin notes:] + [illegible]

+ in leg. itaque 4. § [illegible] [illegible] et

pollutis, ex quibus apparet quod [illegible] libere [illegible] defferis [illegible] facultates [illegible] debet [illegible] irregularitates [illegible] Ordinem [illegible] exteriorem vitae tam spiritualis quam [illegible] ex doctrina [illegible] Alexandri [illegible] apprime [illegible]

n.º 4

Secunda difficultas [illegible]

[illegible] vita hominis nihil [illegible] Carnis [illegible] vitam [illegible] Vitae [illegible] superterram [illegible] proximum [illegible] Vitis [illegible] tenetur [illegible] proximum [illegible] alteri [illegible]

n.º 5

3.ª difficultas [illegible] irregularitates [illegible] Vita [illegible] Alexandro [illegible] exercens [illegible] Marco [illegible] Gregorio [illegible]

n.º 6

4.ª et ultima difficultas [illegible] Vitae [illegible] defendere [illegible] Vita [illegible]

[illegible] liberare, [illegible] demonstrant, [illegible] sufficere ad [illegible]
Concedendum, [illegible] =

n.º 7.

His difficultatibus non obstantibus [illegible]

[margin: [illegible]]

84. Cum decidendi [illegible] ut proponamus, aliqua animadvertendo [illegible] nocturnos [illegible] fuisse [illegible], ita ut illos [illegible] lege duodecim tabularum [illegible] furem [illegible], si aut [illegible] aut [illegible], quando [illegible] defenderet [illegible] de qua [illegible] furem [illegible] de homine [illegible] in l. 4. ff. ad l. Aquiliam, extat que lex Lothari [illegible] homo liber in curte aliena [illegible] in curte aliena tempore nocturno [illegible], si noctis tempore aut [illegible] homo liber in curte aliena [illegible] ad [illegible] et [illegible] ad [illegible] occidatur, [illegible] debet [illegible] solvere octoginta solidos, quia [illegible] ut homo [illegible] in curte aliena [illegible] debet [illegible] silentio, aut absconditus [illegible] quaecumque [illegible] habeat, aut [illegible] debent [illegible] cum furto [illegible] occiderit, [illegible] si [illegible] in aula Principis [illegible] debent [illegible] observatum fuisse apud [illegible] Neapolitanos, [illegible] manifeste [illegible] [illegible] et [illegible] Collitand [illegible] [illegible] denique [illegible] Rey [illegible] [illegible] partes [illegible] dixo Salomon, que quien mal haze, aborrece la luz, porque las obras no sepan las sus obras, [illegible] con los [illegible] que [illegible] las leyes [illegible] peccan en [illegible] que [illegible] lo hacen [illegible] =

[margin: Leg.]

n.º 8.

Secundo animadvertendum [illegible] Canonico, [illegible]

[margin: [illegible]]

[illegible] inter [illegible] defendere [illegible] Cedere [illegible] [illegible] quo [illegible] [illegible] permittunt [illegible] [illegible] periculo [illegible] [illegible]

n.º 9.

[margin: [illegible]]

[illegible]

Scherm... S. Literarum affirmat hoc permitti, quantum [illegible] probabiliorem amplectendam [illegible] [illegible] fundamentis, quoniam honor [illegible] preciosior iudicatur [illegible] 26. [illegible]

Not. 1 — [illegible] [illegible] de [illegible] [illegible] Semper honor, nomenque [illegible] laudemque [illegible] [illegible] honoris ordine [illegible] ex [illegible] C. [illegible] [illegible] defensionis [illegible] [illegible] [illegible] nullam prohibitionem [illegible] [illegible] [illegible] [illegible] Pauli [illegible] 32. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] honoris [illegible] [illegible] [illegible] Viro [illegible] [illegible] [illegible] [illegible] [illegible] inferre [illegible] aliter [illegible] [illegible] [illegible] irregularis [illegible] bonum [illegible] [illegible] bonum nomen [illegible] [illegible] [illegible] pro defensione [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] defendat [illegible] [illegible] [illegible] pro defensione [illegible] [illegible] aut quamlibet [illegible] occidit, tradit [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 67. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 25. [illegible]

n.º 10.

De defensione proximi agitur — [illegible] [illegible] hanc doctrinam, quae [illegible] vitae, honoris, aut [illegible] defensionis [illegible] [illegible] absque [illegible] irregularitate, [illegible] [illegible] [illegible] [illegible] [illegible] propria persona [illegible] [illegible] [illegible] proximum [illegible] [illegible] aggressorem occidendo servato moderamine [illegible] [illegible] [illegible] ob defensionem proximi [illegible] [illegible] [illegible] [illegible] absque [illegible] [illegible] [illegible] [illegible] [illegible] 6. [illegible] [illegible] ex Caritate proximum diligere, [illegible] innocentem [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] absque notabili [illegible] damno. [illegible] proximus [illegible] Sit innocens, et [illegible] [illegible] indigeat [illegible] auxilio, [illegible] sub culpa lethali [illegible] [illegible] [illegible] [illegible] ob defensionem vitae, honoris, aut divitiarum proximi absque macula irregularitatis [illegible] occidere, [illegible] enim si ob defendendum proximum occideret aggressorem irregularitatem [illegible] [illegible] defensionem proximi relinqueret, [illegible] culpam lethalem [illegible] [illegible] periculum [illegible] [illegible] vitare intendit, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] periculis 2. de [illegible] [illegible] [illegible] [illegible] occisionem [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] defensionem [illegible] [illegible] [illegible] [illegible] solum locum habet [illegible] [illegible] [illegible] defensio [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] occidere [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

n.º 11.

[illegible] hanc doctrinam sequens videtur [illegible] [illegible] [illegible] [illegible] culpam occidens [illegible] ob defensionem vitae, honoris, aut divitiarum, [illegible] irregularis, sequentur [illegible] [illegible] qui ex officio nocentem interficit [illegible] [illegible] irregularitatem [illegible] [illegible] publica authoritate interficiendo [illegible] homicidium [illegible] [illegible] [illegible] irregularis [illegible] sanguinis [illegible] [illegible] [illegible] [illegible] 50 [illegible] [illegible] [illegible] [illegible] [illegible] ob defensionem vitae, aut honoris, aut divitiarum occidit [illegible] irregularis, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] ob defensionem vitae, honoris [illegible] servato moderamine [illegible] [illegible] occidit, voluntatem [illegible] occidendi [illegible] [illegible] [illegible] [illegible] [illegible] habet [illegible] [illegible] [illegible] sanguinis [illegible] voluntarie [illegible] nocentem [illegible] [illegible] [illegible] [illegible] defensionis facultatem vitae, aut honoris occidit, sanguinis [illegible] [illegible] [illegible] voluntate [illegible]

Defensiones

Deficiat, et hoc de causa Christi Mansuetissimam, atque in sanguinolentam personam representare Valeat, id est ab altaris ministerio arceri debet; Judex enim licet in proferendo [illegible] sanguinis Culpam [illegible] committat, [illegible] Voluntatis directa occidendi habet, ideoque dicitur sanguinolentus, [illegible] personam Christi [illegible] sanguinolentam representare nequeat, hostiam immaculatam [illegible] offerre prohibe[ri] debet, et irregularis efficitur, ut plenius [illegible] inter Canonicas, et [illegible] relatas, tradunt Suarez de Censuris [illegible] 40 sectione [illegible] n.º 44. Salcedo in praxi Criminali cap. [illegible] et [illegible] [illegible] calogi lib. 6. cap. [illegible] n.º 15. [illegible] =

n.º 22.

4.º et ultimo notandum est nostrorum [illegible] [illegible] irregularem [illegible] quidem necessariam defensionem facere, aut [illegible] occidere, [illegible] [illegible] Verfectae Clericos, [illegible] irregulares [illegible] [illegible] [illegible] Clericos, [illegible] defendendo homicidium [illegible] et [illegible] [illegible] [illegible] [illegible] Clericos [illegible] exceptos, [illegible] decretum generaliter loquatur [illegible] personas, et excusent ab irregularitate homicidas [illegible] vitae, honoris, aut facultatum defensione [illegible] [illegible] [illegible] [illegible] Clerici [illegible] [illegible] distinguamus [illegible] arbiter [illegible] de receptis arbitris [illegible] homicidium [illegible] nullam Culpam habet, [illegible] irregularitatem [illegible] [illegible] [illegible] nullam habeat, nec [illegible] Culpam in hoc privata occisione [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] aliquem occidere [illegible] de Homicidio, illa proponit [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] superiora [illegible] [illegible] [illegible] =

n.º 23.

[illegible] duplici [illegible] [illegible] [illegible] duplex [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] homicidis [illegible] defensionis [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] defensionem [illegible] personis [illegible] cap. 28. n.º 9. = [illegible] Soto lib. 5. de Justitia [illegible] art. 8. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 27. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 40. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 29. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] =

Marginal notes: Clericus [illegible] excipitur. = / [illegible] decidendi [illegible] [illegible] [illegible] =

n.º 24.

Nos vero secundum [illegible] decisiones [illegible] [illegible] fure nocturno [illegible] oriente [illegible] demonstrabitur in nostris [illegible], et ex hoc provenit, quia [illegible] fur nocturnus est, sol [illegible] est, ita ut [illegible] discerni an ad occidendum [illegible] furandi veniat, quare [illegible] periculum vitae timetur, [illegible] quod [illegible] in [illegible] diurno, in quo [illegible], id est, in illo sol [illegible] veniat, an ad occidendum [illegible] a furno [illegible] [illegible] clara, vel obscura [illegible]

[illegible] l. 4. [illegible] ff. de [illegible] [illegible] [illegible] [illegible] [illegible] ff. [illegible] 37. [illegible] cap. [illegible] n.º 7. [illegible] [illegible] cap. [illegible] 24 [illegible] cap. 1.º [illegible] [illegible] cap. [illegible] 25 [illegible] 28. q. 2.ª l. 1.ª §. [illegible] [illegible] ff. de [illegible], [illegible] [illegible] [illegible], [illegible] [illegible] cap. fures 72.º de [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] cap. [illegible] 31 23. q. 2. cap. placuit 27. q. 5. [illegible] [illegible] [illegible] cap. n.º [illegible] [illegible] 7. [illegible] [illegible] n.º 6. [illegible] n.º 4.º [illegible] [illegible] tomo 3. [illegible] [illegible] cap. 2.º n.º 11. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] =

n.º 25.

Et hic veniunt [illegible] difficultates, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] cap. 5.º [illegible] cap. 9. [illegible] n.º 11. n.º 6. [illegible] [illegible] [illegible] 1528. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] n.º 31. [illegible] = [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] n.º 11. [illegible] [illegible] [illegible] =

n.º 26.

[illegible] [illegible]

[illegible] cap. [illegible] = Nec [illegible] auctoritate [illegible] cap. [illegible] 6. [illegible] [illegible] quisquis enim [illegible] servare poterint, [illegible] [illegible] vitam spiritualem, atque [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] temporalis, aut spiritualis [illegible] [illegible] 6. [illegible] =

n.° 27.

Rursus [illegible] [illegible] [illegible] [illegible] et auctoritatibus, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] cap. [illegible] 4. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Cathol. [illegible] cap. 7. [illegible] 6. cap. [illegible] =

n.° 28.

Denique [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] = [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] = Nec [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] cap. [illegible] =

[illegible] [illegible] =

n. 19. Ex his autem [illegible]

[illegible]

n. 20. Quidquid [illegible]

[illegible]

Castro lib. 2. de leg. poenal. cap. 4.

n. 21. Denique solutioni [illegible]

[illegible]

Sed lethalis hac per [illegible] irregularem videri, qui [illegible] vult potius res suas amittere, quam sacerdos suos sanguinem fundere, quoniam licet hoc verum sit, [illegible] talis declaratio [illegible] patet. [illegible] nedum [illegible] incurrimus [illegible] irregularitatem [illegible] ob defensionem proximi servato moderamine inculpatae tutelae aliquem occidit, [illegible] si clericus [illegible] defendere [illegible] occidat irregularitatem incurrit, [illegible] superiores potuit ascendere ordines, [illegible] ministrare, nulla [illegible] dispensatione [illegible] ut [illegible] animadvertit Suarez de censuris [illegible] disp. 46. sect. 3. n. 4. per totum. = Nec [illegible] Clericus lethaliter percutitur [illegible] irregularis existat, licet talis percussus fuerit [illegible] prius [illegible] apparuerat, quando quidem [illegible] Melan. [illegible] §. [illegible] §. si servus [illegible] Aquiliae prior [illegible] de vulnere tenetur [illegible] hac difficultate [illegible] Coll. [illegible] §. 2. n. 4. =

n. 22.

Secundo de duabus [illegible] Decretum [illegible] Cum dilectus 6. de his qui [illegible] Violentia [illegible] Corporis [illegible] debuerat cadere in [illegible] ex quibus [illegible] illum [illegible] mortuus, nec corporis [illegible] nullum [illegible] irregularitate [illegible] Vol. [illegible] bonorum [illegible] defensione [illegible] sufficiens ad [illegible] illius. [illegible] bonorum, nec [illegible] sufficiens nec [illegible] in [illegible] videtur [illegible] bonorum defensione irregularem [illegible] proponitur. = Verum ut [illegible] hac difficultate liberemur [illegible] aut [illegible] de [illegible] corporis, et [illegible] procedit [illegible] cap. Cum dilectus, aut [illegible] sufficit, [illegible] cap. Cum dilectus [illegible] amissionem [illegible] illud [illegible]. = Quamvis [illegible] bonorum [illegible] sufficiens, [illegible] excusatur [illegible] ob defensionem bonorum servato moderamine inculpatae tutelae, semper sufficit, [illegible] de [illegible] defensione [illegible] difficultatem [illegible] 3. C. [illegible] C. de transactionibus, [illegible] et [illegible] 4. de [illegible] n. 29. =

n. 25.

[illegible] cap. [illegible] 7. [illegible] 32. q. 7. [illegible] ad hoc [illegible] bonorum [illegible] sufficit ad [illegible] illud [illegible] sit, [illegible] defensione bonorum, [illegible] videtur sufficiens [illegible] conservatio [illegible] sufficit ad [illegible] illud [illegible] proponimus. = [illegible] difficultas [illegible] illud [illegible] cap. [illegible] specialiter [illegible] 26. [illegible] 32. q. 7. [illegible] praemissa [illegible] debet [illegible] Bonacina [illegible] 9. [illegible] cap. 44. [illegible] 4. [illegible] n. 67. [illegible] in Collect. ad [illegible] = [illegible] Omnibus [illegible]

[illegible] difficultate [illegible], supponimus [illegible] quantumvis grave sit, nec excusare, nec [illegible]

absolvat a peccato, [illegible] ut [illegible]

debeat quis mortale peccatum incurrere, [illegible] docet [illegible] 1. p. §. 3. n. [illegible]

disp. 45. sect. 7. n. 4. = Hoc supposito [illegible]

[illegible]

[illegible]

[illegible] adulterium [illegible] peccata [illegible]

[illegible] disp. 27. [illegible] =

n. 24.

[illegible] cap. Olim [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] + de export. [illegible]

[illegible]

[illegible]

[illegible]

[illegible] cap. Olim [illegible]

[illegible]

[illegible]

[illegible]

[illegible] cap. Olim [illegible] cap. 2. n. 223. [illegible]

[illegible] cap. 3. n. 24 [illegible] =

n. 25.

[illegible]

[illegible]

[illegible]

[illegible] cap. Olim [illegible]

[illegible]

[illegible]

[illegible] n. 229. [illegible] n. 270. =

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] cap. Olim [illegible]

[illegible]

[illegible]

nec dici quia ... irregularitas [illegible] ... Mascardus [illegible] 1330 ... [illegible] ... dist. 122 ... [illegible]

n.º 26.

4.º Ultimo deducitur [illegible] ... [illegible] ... facto, precepto, sive consilio, aut defensione [illegible] ... ex quibus ... propositas ... ad irregularem ... [illegible] ... quilibet alter adversarius occidat ... [illegible] ... [illegible]

Colligitur

V. facto, precepto, consilio, aut defensione ... [illegible] ... homicidij ... quilibet ... [illegible] ... facto, aut precepto, aut consilio ... [illegible] ... [illegible]

[illegible] ... facto, precepto, consilio aut defensione ... [illegible] ... de facto precepto, aut consilio ... [illegible] ... [illegible] ... voluntarie ... [illegible] ... [illegible] ... dist. 46 ... [illegible]

n.º 27.

Cum quaeras ... Voluntarij ... [illegible] ... [illegible] ... licet ... [illegible] ... mandando ... [illegible] ... voluntate ... [illegible] ... [illegible] ... [illegible]

[illegible] ... [illegible] ... [illegible]

Pro ... [illegible] ... [illegible] ... [illegible]

Ed cum ... fuerit sive ... habetur sive alterius cuiusque. hoc ... distinguendum

haberet. 1. respondetur ... quoniam ad irregularitatem incurrendam necessaria est culpa homicidii ...

... habet homicidii ... vero nullam habet culpam homicidii quoad ... licet

... peccato homicidii ... et voluntate peccatum ... cum ... nec ...

... habere ... animo, aut voluntate ... solus ... ad irregularitatem ...

... culpa ... fuerit deductus, nec ... actus exterior ab animo ... procedere

nec ... 2. ... irregularitas ... in casibus ... expressis ...

... ex ... at ... ex ... non ...

... irregularitatem ... irregularitas ... = ...

... ex ... [10] ...

... dubitari ... l. 20. ... Cum ... nomine ...

... voluntas ... cum ... dicerit ... requiratur ...

requiratur, ... sufficiens argumentum ... probabile ... per ...

... deserit. ... licet ...

... cum irregularitas ... requiratur ...

[illegible]

Sed adversus hanc doctrinam opponi videtur decisio ... Cum ...

... in ... Clerici ... videbatur, ... irregularitatem ... fuerit ...

... homicidii ... irregularitas ... = ...

... irregularitatis ... Clerici ...

... Clerico ... quod irregularitas ... requiritur ...

... culpa ... Culpa ...

... principaliter aut ... Culpa ... requiratur ...

... requiritur ... tractatur, aut ... necesse ...

... fidelis ...

... = Respondetur ... irregularitatem ... Clericus ...

... nec irregularitatem, licet peccet, ... hoc peccatum veniale, ...

... mortale ... peccatum mortale ... veniale ...

... veniale ... part. 2. ... [37] ...

... in ... 4. ... 11. ... 46. ...

... =

Sit postea ... irregularitas ... incurreret ...

... cum licet ... Clerico ... irregularitatis ... Clericus ...

... debet, ... periculis ...

... tradebant ... non ... peccat ... Clericus fuerit, nec fuerit irregularis ...

... sumptis ... etiam ...

+

Scheda 56 4))

Relectio ad text: in capp. 1. 2. 8. et 16. de Iuris. lib. 5. tit. 19.

Celebris repet. ad text. in cap. 1° et 2° cap. conquestus 8. cap. Salubriter 16. [illegible] de Usuris

[illegible] explicandam [illegible]:

Propositio exsecutiva.

N.° 1.

Inter omnes [illegible] qui [illegible] de prohibitione usurarum proveniunt ex [illegible] fructibus [illegible], vel [illegible] explicatur, [illegible] Clericus, sive laicus qui pro pecunia sibi debita pignus recepit, computare fructus pignoris in sortem [illegible], et tanquam usurarius punitur. [illegible] cap. [illegible] de empt. et vendit. cap. [illegible] 3. cap. [illegible] 6. cap. significante 7. de pignoribus. de iure civili probatur leg. [illegible] ff. de [illegible], leg. 1. [illegible] C. de distract. pignorum [illegible]. leg. [illegible] 7. C. de distract. pignorum. leg. [illegible] 9. C. [illegible] leg. [illegible] C. de usuris, de iure regio probant [illegible] ordinamento [illegible] [illegible] repetentes [illegible] Petrus [illegible] de usuris [illegible] Sebastianus [illegible] de censibus [illegible] Castillo [illegible] Covarruvias [illegible] resolut. [illegible] Molina [illegible] Azor [illegible] collect. [illegible]

N.° 2.

[illegible] difficultatibus. 1.a [illegible] leg. [illegible] 16. §. de [illegible] de [illegible] leg. [illegible] §. ult. ff. [illegible] Covarruvias [illegible] decept. cap. [illegible] 3. cap. [illegible] 6. de empt. et vendit. leg. 2.a C. de rescindenda vendit. [illegible]

[illegible]

N.° 3.

Secunda difficultas ex eo descendit [illegible] si de rei [illegible] fructus [illegible] leg. [illegible] §. [illegible] ff. de [illegible] leg. [illegible] 37. [illegible] 39. ff. de [illegible] C. de pact. [illegible] Creditor [illegible] pignoris [illegible]

[illegible] in sortem principalis [illegible]

N.° 4.

3.a difficultas ex eo [illegible] cap. [illegible] 4. [illegible] Sebastianus [illegible] de censibus cap. [illegible] 4. [illegible] de pignoribus [illegible]

N.° 5.

4.a difficultas ex [illegible] leg. [illegible] 8. ff. de pignoribus [illegible] leg. [illegible] 17. C. de usuris [illegible]

[illegible] usurarius [illegible]

n.° 6.

Quinta difficultas dirigitur contra illas nostri Juris partes, quae sanciunt Clericos usurarios poena suspensionis, vel privationis offitii, et beneficii, Laicos autem poena excommunicationis [illegible], et in hunc modum, puniebat usurarios [illegible] poena privationis [illegible] sepulturae, [illegible] de quibus in cap. quia in omnibus 3. cap. [illegible] 5. hoc tit. de Usuris, cap. [illegible] de praedicto suo [illegible] alienus habeatur a Clero [illegible] tradit [illegible] Greg. 7. tit. 2. de Usuris cap. 11. et Menochius de arbitrariis cap. [illegible] n.° 39. [illegible] usurarii tamen puniuntur poena suspensionis, et excommunicationis. =

n.° 7.

Sexta, et ult.a difficultas ex hac consideratione [illegible] quae usura prohibita et illicita est, [illegible] quia [illegible] aut pignorantis, a quo aliquid ultra sortem accipitur, [illegible] sed huic nullatenus iniuria infertur, [illegible] tradunt, et de omni [illegible] est illicita, [illegible] usura [illegible] de Usuris, [illegible] ultra sortem principalem [illegible] et puniendi usurarii [illegible] nullam poenam mereatur [illegible]

n.° 8.

His difficultatibus non obstantibus dicendum Veritatem [illegible] ut facilius [illegible] valde necessarium proponendum, [illegible] animadvertimus [illegible] ab utendo descendere, ut mensura a mentiendo, cultura a colendo ut constat ex Cicerone [illegible] in Locis, et Calepino [illegible] usura [illegible] Othomano 1.° [illegible] disputat. Juris [illegible] usuris cap. 4.° et [illegible] de Usuris cap. [illegible] n.° 4. [illegible] licet in bonam, vel in malam partem accipi, ex [illegible] in [illegible] illicitis [illegible] regulariter accipitur, ut [illegible] in hoc [illegible] in [illegible] Clerici [illegible] ut constat ex [illegible] de nautico foenore [illegible] ut late prosequuntur [illegible] Gaspar Rodriguez [illegible] 1.° q. 4.a n.° 28. Othomanus, et [illegible] Usura a lucro [illegible] immediate proveniens ex mutuo, ut tradunt Bonacina [illegible] de [illegible] q. 3. puncto 1.° n.° 1. Azor [illegible] instit. moral. [illegible] qua constat [illegible] necessarium usura [illegible] sortem principalem [illegible] mutuans pecuniam [illegible] amicitiam cum mutuatario; usura [illegible] lucri [illegible] in mutuo, nam [illegible] aliunde proveniat, [illegible] usura [illegible] ex mutuo, [illegible] lucrum [illegible] ex mutuo, aliter autem usura [illegible] ut [illegible] authores [illegible] =

n.° 9

[illegible] ad [illegible] varios proponi solere usuras [illegible] inter [illegible] sequens placet [illegible] usuris duplicem esse, alliam quidem realem, aliam [illegible] mentalem. Realis [illegible] usura dividitur in expressam seu formalem, et in virtualem, seu implicitam, aut palliatam. Expressa [illegible] formalis nuncupatur illa, in qua intervenit pactum explicitum reddendi aliquid ultra sortem, [illegible] centum ut post annum reddas mihi centum et quinque. Usura [illegible] virtualis implicita, seu palliata appellatur quae [illegible] in mutuo formali et expresso, sed in tacito, atque virtuali [illegible] ac nomine [illegible] [illegible] velut pallio occultatur, atque virtualiter includitur, ut accidit quando quis alteri domum [illegible] [illegible] ob dilatam solutionem, aut emit minoris [illegible] anticipatam solutionem [illegible] ditor concedit dilationem [illegible] mutuare tacite, et virtualiter [illegible] usque ad [illegible] [illegible] ad solvendum, et dum emptor anticipat solutionem, implicite videtur mutuare usque ad [illegible] traditionem rei emptae. Usura quidem mentalis vocatur [illegible] quis pecuniam mutuans [illegible] [illegible] aliquid ultra sortem principalem recipiendi nullo pacto exteriori [illegible] ut docent Bonacina

[illegible]

[illegible]

Ethimologia, et definitio usurae [illegible], et [illegible] requisita ad [illegible]

Divisio usurae [illegible].

n. 9. [illegible] per S. Th. [illegible] moralis cap. 8. Layman in summa lib. 3. de pactis sect. 5. tract. 4. c. 16. n. 6. Soto lib. de Just. et Jure q. 1. art. 1. [illegible], unus [illegible] Angelicus Praeceptor D. Thomas 2a 2ae q. 78 art. 1 [illegible].

n. 10.

3o notandum est Usuram non solum jure divino, Canonico, aut Civili, verum et jure naturali prohibitam esse. Quod ex ratione respectu juris naturalis probatur ex leg. nam hoc natura ff de cond. indebiti cap. Locupletari de R. J. lib. 6. et ex eo quia res sua natura sterilis, et in se fundat impar; nec generat pecuniam [illegible] consideraverat Plutarchus lib. singulari de Usura Vitanda. sed pecunia sterilis est, et sine fructu sua natura [illegible] in princ. et §. 1. ff de usufructu [illegible], cum usu consumatur §. constituitur inst. de Usufructu, [illegible] [illegible] ff. de U. [illegible] usuram [illegible] pecunia aut ex rebus in fructi[illegible] [illegible] [illegible] quoad prohibitionem in Jure divino [illegible] Veteris probatur ex Exodi 22. vers. 25. [illegible] cap. 18 [illegible] qui usuram non dederit, sed morietur. ex Novo apparet ex Luc. cap. 6. [illegible] mutuum date nihil inde sperantes. [illegible] cio quod usurarum prohibitio comprobatur ex cap. [illegible] cap. [illegible] omnibus cap. super eo [illegible] de Usuris lib. 6. [illegible] unica [illegible] cap. 1. [illegible] cap. [illegible] Conciliis aliis [illegible] et in pluribus [illegible] provincialibus et generalibus. [illegible] antiquissimo populi Romani probatur ex leg. duodecim tabularum in [illegible] neque [illegible] amplius exerceto [illegible] exerceat quadrupli [illegible]. [illegible] Imperatores [illegible] Justinianus in leg. [illegible] C. ex quibus causis infamia irrogatur [illegible] [illegible] comprobatur ex Novella [illegible] in princ., ubi Justinianus promittit se observaturum quatuor generalia Concilia, inter quae extat Nicenum, quo usuras damnatas [illegible] cap. [illegible] 478. [illegible] [illegible] l. 9. [illegible] [illegible] ordinari [illegible] 4. [illegible] D. Thomas [illegible] q. 78 art. 1. Sot. Caietanus [illegible] =

n. 11.

4o animadvertendum [illegible] jure Canonico [illegible] usurarios manifestos [illegible] Criminis [illegible]. Sic 1o ut non admittantur ad Communionem altaris, et [illegible] Corpus [illegible] cap. quia in omnibus [illegible] de Usuris [illegible] tradit [illegible] cap. 3. n. 5. [illegible] = Sic 2o [illegible] privatione ecclesiasticae sepulturae, de qua in dicto cap. quamvis [illegible] [illegible] hoc [illegible] cap. [illegible] lib. 6. [illegible] decedentes in peccato notorio ecclesiastica [illegible] careant de sepult. cap. [illegible] de torneamentis cap. [illegible] de raptoribus, cap. [illegible] usurarii [illegible] lethaliter peccant [illegible], [illegible] [illegible] cap. [illegible] lib. 6. = Sic 3o [illegible], [illegible] oblationes [illegible] Usurarii manifesti [illegible], ut [illegible] cap. quia in omnibus [illegible] [illegible] [illegible] fit [illegible] [illegible], ut [illegible] [illegible] usurarius manifestus [illegible] [illegible] [illegible] cap. [illegible] 9. [illegible] = Sic 4o [illegible] [illegible] [illegible] cap. [illegible] C. ex quibus causis [illegible] [illegible] cap. infames [illegible] 3. q. 7. [illegible] = Sic 5o [illegible] admittatur ad [illegible] nec Sacramentaliter absolvatur, nisi [illegible] usuras restituerit, vel [illegible] [illegible] [illegible] cap. quamquam de usuris lib. 6. = Sic sexto [illegible] testamentum usurarii manifesti [illegible] cap. quamquam de usuris [illegible] et [illegible] valeat, nisi usuras restituerit vel de [illegible] cap. [illegible] cap. quamquam de usuris [illegible] [illegible] [illegible] cap. 3. [illegible] = Sic 7o [illegible] manifestus usurarius [illegible] [illegible] [illegible] cap. [illegible] [illegible] [illegible] [illegible] [illegible] = Sic 8o [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] l. 1. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] l. 4. [illegible] lib. 3 [illegible] cap. 3. [illegible] =

n. 12.

5o [illegible] [illegible] [illegible] [illegible] usurarii, [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] cap. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] Moralis de [illegible] [illegible]

[illegible] [illegible] [illegible]

[illegible] n° 122. Similiter [illegible] propterea [illegible] quod [illegible]

[illegible]

[illegible] in mutuum [illegible]

[illegible] habeat, vel [illegible] pecuniam [illegible]

[illegible]

[illegible] tempore quo celebratur [illegible]

[illegible] dotis [illegible]

[illegible] de contractibus [illegible] n° 10. [illegible]

[illegible] Regul. [illegible] dub. 10. = [illegible]

[illegible] pecuniam [illegible]

[illegible]

[illegible]

n° 19.

6. [illegible]

[illegible] ecclesiastico [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] lib. 4. tit. 6. [illegible] recopilationis [illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible] n° 40. [illegible] n° 25. et 26. [illegible] cap. 57. n° 12 [illegible]

[illegible] n° 331 [illegible] =

n° 4.

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

[illegible]

in d. Constitutionibus, et aliis antiquioribus, ex post ipsos plures relati in [illegible] in leg. diversis [illegible]
Constitutiones [illegible] soluto [illegible] =

n.° 15

Dissolutio [illegible] (marginal note)

[illegible] marginal note

Nec [illegible] obstat [illegible] ... [illegible] non [illegible]
ex illis juribus quibus prohibetur licere creditori [illegible] decipere pactis [illegible] prohibetur
Creditori fructus ex pignore provenientes capere [illegible] criminis usurarii [illegible] pluribus [illegible]
[illegible] dicimus [illegible] decotare [illegible] ne [illegible] observantiae qualitati
[illegible] turbantur, [illegible] firmitatem habeant [illegible]
de [illegible] reipublicae [illegible] L. [illegible] C. de pactis [illegible] quia hoc respicit jus publicum [illegible]
debet privato, [illegible] publico ff. de pactis [illegible] sequitur Creditor [illegible]
re [illegible] fructus ex pignore [illegible] usura
[illegible] semper [illegible] ita tradunt Molina [illegible] 351. et alii plures, quos
refert et sequitur Molina in compendio juris [illegible] 9. de empt. et vendit. [illegible] =

n.° 16

Deinde obstat [illegible] difficultas deducta ex illis authoritatibus [illegible]
[illegible] possidenti aliquam rem [illegible] fructus [illegible] suos facere, sicque [illegible]
creditorem ex pignore percipere [illegible] principali [illegible] tanquam possessorem suos efficere, [illegible]
[illegible] procedere, [illegible] possessor [illegible]
[illegible] assertione [illegible] personae, [illegible]
[illegible] Dominii [illegible] pignoris habet, [illegible] fructus [illegible] Creditor [illegible]
[illegible] fructus [illegible]
licet [illegible] fructus [illegible] dominii [illegible] fructus [illegible]
[illegible] =
Molina [illegible] et alii [illegible] refert et sequitur [illegible] cap. 3. n.° 5. [illegible] =

n.° 17.

Rursus [illegible] difficultas [illegible] 24. [illegible]
[illegible] locum habere, [illegible]
[illegible] Creditore [illegible] fructus ex pignore [illegible]
[illegible] pignoris [illegible]
[illegible] fructibus pignoris [illegible] usurarum [illegible]
[illegible] pignoris [illegible]
[illegible] vel [illegible]
pignus tradatur [illegible] respondetur [illegible] de pignoribus, [illegible]
[illegible], vel [illegible] ante pignoris [illegible] pignus [illegible]
[illegible] fructibus pignoris, [illegible]
[illegible] ut tradit [illegible]
[illegible] =

n.° 18

Denique [illegible] difficultas deducta ex illis juribus quibus [illegible]
pignoris [illegible], vel [illegible] Creditor fructus pignoris
[illegible] et [illegible] hoc facere [illegible] decisionibus [illegible]
[illegible] pignori accedere [illegible]
[illegible] fructus [illegible] Creditori, vel [illegible] usuras [illegible]
ut [illegible] tradit Feliciano de Censibus [illegible] cap. 20. n.° 1. Rodriguez [illegible] 2. [illegible]
[illegible] =
Praesidis [illegible] procedere [illegible] ultra sortem [illegible]
aut [illegible]
[illegible] et [illegible]

Collig[itur] ... cap. ... n.° 4. ... hinc apparet ... =

n.° 19.

Cedit ... [illegible] difficultas ... [illegible]

[illegible] ... ecclesiasticis ... [illegible]

... [illegible] ... vel privationis officii et beneficii ... [illegible]

... [illegible] ...

... [illegible] ... vel privationis officii, beneficii, ... [illegible]

... [illegible] ...

... [illegible] ...

... [illegible] ...

... Coll. Morale, ... [illegible] =

n.° 20.

Denique ... [illegible] ... difficultas ... [illegible]

... [illegible] ...

... [illegible] ...

... [illegible] ...

... [illegible] ...

... [illegible] ...

... [illegible] ...

... [illegible] ... =

n.° 21.

Explicatur ... [illegible] de jurare.

Ex his ... [illegible] ...

exponenda ... [illegible] ... de jurejurando ... [illegible]

... [illegible] ...

... [illegible] ...

... [illegible] ...

... [illegible] ...

... [illegible] ...

... [illegible] ... = Haec difficultas ... [illegible]

... [illegible] ...

... [illegible] ... Collectanea ... col. 155. = Inter ... [illegible]

... [illegible] ...

... [illegible] ... de jurejurando ... [illegible]

... [illegible] ...

... [illegible] ... = ... [illegible]

... [illegible] ...

... [illegible] ... = ... [illegible]

... [illegible] ...

... [illegible] ...

... [illegible] ...

... [illegible] ...

... [illegible] ... =

n.° 22.

Quaeri ... [illegible] ...

... [illegible] ... Tridentino, ita intelligendum ... [illegible]

à tempore ad ... [illegible] ... quaerat, sed tantum ... [illegible] ... tanquam ... pignus ... [illegible], et
retineat cum ... [illegible] ... si ... fructus, vel ... [illegible] ..., si ... [illegible] ... ad ...
[illegible] ... pignus ... [illegible] ... sed ... pignus ... fructus ... [illegible]
fuerat, prout ... fructus ... debitor ... [illegible] ... Creditor ... [illegible]
... [illegible] ... pignus vel hypothecat ... [illegible] ... l. ... [illegible] ... 29 ... [illegible]
... Creditori ... fructus ... [illegible]
... [illegible] ... ad ... [illegible] ..., ... fructus, vel ... [illegible]
ultra ... [illegible] ... Creditor ... [illegible] ... restitutionis ... [illegible]
... [illegible] ... pecuniae ... [illegible] ... solverit ... [illegible]
ad restituendum ... [illegible] ... ultra sortem ... [illegible]
... [illegible] ... solutionis ... [illegible] ... ad ...
fructus pignoris ... [illegible] ... fructus pignoris ... [illegible]
... tanquam ... [illegible] ... fructus, vel ... [illegible]
... [illegible] ... fructus ... [illegible]
... [illegible] ... cap. 17 ... [illegible]
... [illegible] ... cap. 37 ... [illegible]
... [illegible] ...

n. 23 ... [illegible] ...

... [illegible] ...

n. 24 ... [illegible] ... explicatur ... [illegible]
... [illegible] ...

in procedere in mutuo, sed ubi de societatis quinto [illegible] de assecurationis, [illegible] secundo [illegible]
mercatori ad negotiandum [illegible] ex qua negotiatione probabiliter [illegible]
[illegible] ut periculum rei principalis in se [illegible]
[illegible] reddat [illegible] principalis [illegible]
[illegible] intelligendum [illegible] difficultate [illegible] valet [illegible]
[illegible] capitalium [illegible] decisionis procedit [illegible]
[illegible] et [illegible] sorte principali, [illegible]
[illegible]
[illegible] Saulis [illegible] Gabriel Palaeus [illegible]
[illegible]
[illegible] Le Vea [illegible]

n.° 25

4.° [illegible] ad [illegible] aliis depositis [illegible]
[illegible] 44 § 7. [illegible] usuram [illegible]
[illegible]
[illegible]
[illegible]
[illegible] dicere [illegible]
[illegible]
[illegible]
[illegible] sorte [illegible]
[illegible]
[illegible] ult. [illegible] Carolo de [illegible]
[illegible] cap. 2. n.° 27. [illegible]
[illegible] valet [illegible]
[illegible] cap. [illegible] Neque [illegible]
[illegible]
[illegible]
[illegible]
[illegible] liceat [illegible] sorte [illegible]
[illegible] habeat [illegible]
habet [illegible]
[illegible] Molina [illegible]

n.° 26.

[illegible] cap. 29. [illegible] Vera [illegible]
[illegible] ad usuram pecuniam, nec [illegible]
[illegible] licite [illegible]
[illegible] cap. 284 [illegible] cap. 29. [illegible]
[illegible] Vendere [illegible]
[illegible]
[illegible] valet [illegible]
[illegible] 44 [illegible] 54. [illegible] 58. [illegible]
[illegible]

[illegible]

[illegible] in illo acceptis, [illegible] Cajet. [illegible] ad usuram, ut [illegible] significare [illegible] [illegible], vel [illegible] Usq ad Usuq [illegible] [illegible] = [illegible] [illegible] [illegible] [illegible] spiritualis [illegible], [illegible] acceptio, [illegible] [illegible] [illegible] [illegible] [illegible] valebant. [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible], [illegible] [illegible] [illegible] D. Thom. 2.2. q. 78. art. 2. [illegible] q. 4. art. 1. [illegible] art. 8 q. 2. art. 6. [illegible] [illegible] =

[illegible] [illegible] explicans [illegible] [illegible], [illegible] [illegible], [illegible] alterius [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] 27 [illegible] 47. [illegible]

[illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible] [illegible]

Relect. Iur. Utriusq. t. 3